

1 Det. Banks-For the People-Cross(Schechter)
2 the technical people who were following the car,
3 following the phone, I should say.

4 Q Do you know how they ascertained where that
5 phone was in that car?

6 MR. KESSLER: Objection.

7 THE COURT: Sustained.

8 Q Do you know if any eavesdropping warrants had
9 been obtained prior to them locating the vehicle that the
10 phone was coming from?

11 MR. KESSLER: Objection.

12 THE COURT: Sustained.

13 Q Now, at the time that you went back to the
14 location on 59th Avenue, the location was on 59th Avenue
15 or 134th Street?

16 A 59th Avenue.

17 Q Were the two individuals that you had
18 apprehended, were they in the vehicle also?

19 A They were in two separate vehicles.

20 Q Were they brought back into the location?

21 A I believe they were.

22 Q And when you had your conversation with the
23 landlord -- well, withdrawn.

24 Did you find any keys on either of the two
25 individuals for that apartment in the basement?

1 Det. Banks-For the People-Cross(Schechter)

2 A Did I; no.

3 Q Did you find any keys on either individual?

4 A Did I find any; no.

5 Q Do you know if anyone else, your partner or
6 anyone else, found any keys for that?

7 A No, I don't know if they did or not.

8 Q When you entered, then, how many different ways
9 were there to get into the basement apartment?

10 A Two. That way and there was a stairway that
11 led to a door inside the house.

12 Q If you know, when you saw the four people exit
13 the house, did they exit from the front door or from the
14 basement?

15 A I didn't see the four people until they reached
16 the sidewalk so I didn't know if they exited -- it
17 appeared to me they were coming out of the driveway
18 between two houses. I don't know where they came out of.

19 Q On that appearance would they then have come
20 out of the side entrance?

21 A Yes, they would have.

22 Q Now, when you went was the basement door
23 locked?

24 A Yes, it was.

25 Q And do you know if any keys to that apartment

1 Det. Banks-For the People-Cross(Schechter)
2 were found on either of those two individuals?

3 MR. KESSLER: Objection. Asked and
4 answered.

5 THE COURT: Sustained.

6 Q When you spoke to the landlord and he told you
7 that two Asians had rented the apartment, was he asked to
8 look at these two individuals to see if they were either
9 of the individuals that rented the apartment?

10 A No, he was not.

11 Q Did you ask him if there was any lease for the
12 apartment?

13 A No, I did not.

14 Q Now, to get into the apartment did you go down
15 the steps or did you walk around to the side entrance
16 from the street?

17 A The side door entrance is right on the same
18 level as the driveway. You just walk up the driveway to
19 the side door.

20 Q Was that door opened or was it locked?

21 A It was locked.

22 Q Were you the first one to go in or did your
23 partner go in?

24 A I was.

25 Q And the first thing you did was go in to see if

1 Det. Banks-For the People-Cross(Schechter)
2 there were any other individuals in the apartment?

3 A That's correct.

4 Q And how long did it take you to ascertain that
5 no one else was in the apartment?

6 A A few seconds.

7 Q And then did you go back in to look for
8 contraband?

9 A No, I did not. Well, I saw contraband when I
10 was looking through the apartment. After I secured the
11 apartment I went back and recovered the contraband.

12 Q During your time at Police Plaza did you know
13 how many people had been kidnapped?

14 A Yes, I did.

15 Q How many people had been kidnapped?

16 A Two.

17 Q And you knew, and you had a picture of both of
18 those?

19 A That's correct.

20 Q And am I correct in saying, then, that when you
21 went back into the apartment you were not looking for any
22 other victim of this particular crime?

23 A No, that would be incorrect. The crime of
24 kidnapping, I was looking for more victims.

25 Q That were taken as part of that investigation?

1 Det. Banks-For the People-Cross(Schechter)

2 A No.

3 Q Well, were you looking for any other victims
4 that had been kidnapped in the kidnapping in the vicinity
5 of Kennedy Airport of the two females?

6 A No, I wasn't.

7 Q Did either of the two females, prior to going
8 back into the apartment, ever tell you that they had seen
9 any other kidnap victims?

10 A No. I asked them if they saw or heard
11 anything. They said they heard other vices in the
12 apartment but they didn't see anyone.

13 Q And prior to going into the apartment had you
14 spoken to the landlord who lived in a different part of
15 the house?

16 A He lived in the main part of the house, that's
17 correct.

18 Q Prior to going back into the apartment did you
19 you ever attempt to get a search warrant?

20 A I'm sorry. The only time, you mean, I went
21 back into the apartment. I only went in once.

22 Q Going into the apartment did you ever attempt
23 to get a search warrant?

24 A No, I did not.

25 THE COURT: Did you ever get a search

1 Det. Banks-For the People-Cross(Schechter)
2 warrant?

3 THE WITNESS: No, your Honor.

4 Q When you looked at the cellular phones, were
5 you able to ascertain that they had ever been used as
6 part of that kidnapping?

7 MR. KESSLER: Objection as to form.

8 THE COURT: Sustained.

9 Q Well, officer, were the cellular phones that
10 you saw, per se, contraband?

11 MR. KESSLER: Objection, again, as to
12 form.

13 THE COURT: Sustained.

14 Q Is there any violation in the Penal Law to
15 having a cellular phone?

16 A Not to my knowledge.

17 Q And you still took those cellular phones
18 without having a warrant?

19 A Well at that point I didn't know if it was --

20 Q Well, yes or no did you? You took them without
21 having a warrant?

22 A That's correct.

23 Q And the landlord had told you he had rented the
24 basement apartment to two Asian males?

25 MR. KESSLER: Objection. Asked and

1 Det. Banks-For the People-Cross(Schechter)
2 answered.

3 THE COURT: That's so.

4 MR. SCHECHTER: I have nothing further,
5 your Honor.

6 THE COURT: Thank you. Any questions?

7 MR. KESSLER: No.

8 THE COURT: Any questions, Ms. Pelosi?

9 MS. PELOSI: No, your Honor.

10 THE COURT: Thank you very much,
11 Detective Banks.

12 Were the minutes procured by you on the
13 other hearing?

14 MR. SCHECHTER: Yes.

15 THE COURT: Do we have a copy?

16 LAW CLERK: I don't have them. It's just
17 the testimony of Keith Ng, which was the first,
18 and I don't have that.

19 MR. SCHECHTER: Do you want the name of
20 the reporter and the date?

21 THE COURT: We'll get a copy of the
22 hearing today.

23 THE CLERK: It was Nancy Samms,
24 S-A-M-M-S.

25 MR. SCHECHTER: They would have already

Proceedings

been typed.

THE COURT: What was the date?

THE CLERK: February 8th and 9th.

THE COURT: We can have a decision on this in about a week if we get the minutes.

MR. SCHECHTER: Your Honor, you have not asked us if we're resting.

THE COURT: I'm going to ask now. Do you rest?

MS. PELOSI: Judge, I talked to my client and we rest. Qin Guang Zheng rests.

MR. SCHECHTER: Your Honor, my client will not testify at the hearing but prior to anything I cannot rest until, one, if there's an eavesdropping warrant which can directly affect everything that occurred thereafter and if I have not been provided with that, as according to statute, it could be that everything that occurred, including the lineups or the phone conversations, the locations are suppressible because of the district attorney not complying with the language of the eavesdropping statute of the Criminal Procedure Law.

Proceedings

1
2 Now, I cannot rest at this stage until
3 I'm, one, provided with a copy of the
4 eavesdropping warrant and see exactly what that
5 states.

6 MR. KESSLER: I believe I turned over all
7 the paperwork from Manhattan, including the
8 eavesdropping warrant, as part of the Rosario
9 material in the case. I have another copy that
10 I can make and show defense counsel.

11 MR. SCHECHTER: I don't remember getting
12 that, your Honor. I don't remember seeing
13 that. I'm not going to say I did or did not
14 get it at this stage but I don't remember.

15 MR. KESSLER: It's only three pages. If
16 I could get a copy machine I could get another
17 copy.

18 THE COURT: Are you saying it was already
19 served?

20 MR. KESSLER: Judge, I turned over about
21 close to 130 pages of Rosario material,
22 including the Manhattan paperwork. I also
23 believe the paperwork in Manhattan had been
24 turned over to other counsels that had
25 previously been on the case before we got it

Proceedings

here in Queens.

It was initially in Manhattan for months and then came here to Queens on this particular case. So with regards to it, as I said, I have another. It's about three pages. I could make another copy and turn it over to both defense counsel if there's a machine right nearby and if you want to look at it.

MR. SCHECHTER: Your Honor, I looked through the entire file. I did not receive the eavesdropping file which, under the statute, must be served within 15 days of the arraignment.

The Manhattan arrest, to my understanding, was dismissed and it was not done according to statute, your Honor. I would like an opportunity to view the eavesdropping warrant, as such, your Honor.

As I will not be able to do it right now, your Honor, I would have no objection, if you want, to put the case on for a day next week and by that time I could have viewed the search warrant and will make any appropriate observations.

Proceedings

1
2 MS. PELOSI: Your Honor, may I be heard.
3 I'd just like to amend my last statement. I'm
4 not going to rest at this point. I discussed
5 with my client about testifying. He is not
6 going to testify and I'll join in his
7 application so I can see the warrant.

8 THE COURT: I think we ought to tie down
9 -- I think it's a multi-faceted issue, whether
10 or not you need an eavesdropping warrant to do
11 a cellular search in moving vehicles but that
12 is aside from recording conversations and that
13 sort of thing.

14 So, I think there may be some different
15 issues. So, I think we'll put it on for the DA
16 to get together whatever his background on
17 Rosario material concerning warrants that have
18 been given to defense counsel and who gave
19 them, when they were given.

20 THE CLERK: The 24th, your Honor?

21 THE COURT: Mr. Kessler, is that good for
22 you.

23 MR. KESSLER: The 24th of April?

24 MS. PELOSI: At 9:30.

25 MR. SCHECHTER: First thing in the

Proceedings

morning?

THE CLERK: I don't know if the
defendants are going to be produced.

MR. SCHECHTER: This is going to be more
argument, oral. I'll waive his appearance.

THE COURT: You'll waive your argument
until that day?

MS. PELOSI: Yes.

THE CLERK: April 24th. Same bail
conditions?

THE COURT: Same bail.

(Whereupon, the case was adjourned until
April 24, 1996.)

CERTIFICATION

CERTIFIED THAT THE FOREGOING IS A TRUE AND ACCURATE
TRANSCRIPT OF THE ORIGINAL STENOGRAPHIC MINUTES IN THIS
CASE.



Alan H. Kimbarow
Senior Court Reporter

CAT
3/7/96
COPY

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS : CRIMINAL TERM: PART K-11

-----X
THE PEOPLE OF THE STATE OF NEW YORK : Indictment No.
3282/95

-against-

HAI GUANG ZHENG and QIN GUANG ZHENG, :

Defendants. : Hearing Arguments

-----X and Decision

125-01 Queens Boulevard
Kew Gardens, New York 11415

April 24, 1996

B E F O R E:

HONORABLE JOHN J. CLABBY

Justice

A p p e a r a n c e s:

HONORABLE RICHARD A. BROWN
District Attorney - Queens County
125-01 Queens Boulevard
Kew Gardens, New York 11415
BY: SCOTT KESSLER, ESQ.
Assistant District Attorney

DONALD SCHECTER, ESQ.
Attorney for the Defendant Hai Guang Zheng

LISA PELOSI, ESQ.
Attorney for the Defendant Qin Guang Zheng

ALSO PRESENT:
Yi Wan, Mandarin Interpreter

* * *

KARYN S. GUTKIN
Senior Court Reporter

1 Proceedings

2 COURT CLERK: This is case number eight on
3 the calendar, Indictment 3282 of '95,
4 Hai Guang Zheng and Qin Guang Zheng.

5 THE COURT: Last time we left off there was
6 an open matter for an order for a wire
7 tapping, as to what that was about and whether
8 it was served on the defense counsel within 15
9 days of the order being secured.

10 What do you have to say on that,
11 Mr. Kessler?

12 MR. KESSLER: Judge, I turned over to your
13 law secretary and each of the defense counsels
14 a copy of the notice that was served on April
15 27, 1995 to both defendants when they were
16 arraigned in Manhattan on this case.

17 If your Honor remembers, this case began
18 in Manhattan, it was transferred jurisdiction
19 to Queens based upon the fact of the rapes.

20 THE COURT: I recall that.

21 MR. KESSLER: So based upon the fact that
22 defendants had actual knowledge, the notice
23 being everything required under 750, based
24 upon the fact that defendants had actual
25 knowledge of the wire tap-- I'm sorry,

Proceedings

1
2 eavesdropping warrants, the People turned over
3 copies of that to defense counsel, and we will
4 rely on the notices. And copy to the Court.

5 THE COURT: What was the scenario so far as
6 the alleged abduction at the airport and
7 letting off of one defendant, can you give us
8 background on that?

9 MR. KESSLER: What happened is the women
10 were kidnapped, leaving off one man. That man
11 later went to the police. He was told to
12 call-- he would be receiving a call, call this
13 number regarding ransom demands.

14 The police did a dump on the phone; a
15 dump, meaning they were able to-- when the
16 defendants called from the cell phone they
17 were able to know the number that they were
18 calling from.

19 At that point in time they were able to
20 get, based upon the fact that there were two
21 women presently held in custody and kidnapping
22 demands were made, an eavesdropping warrant
23 from a justice in Manhattan, to just be able
24 to trace that cell phone if it became on the
25 air.

Proceedings

After that cell phone was used, they have monitoring devices, they were able to pinpoint an area where this cell phone was being used for the kidnapping demands. That area was located in Flushing. And then with equipment, going to Flushing, they were able to pinpoint a particular car.

Remember the testimony from Detective Banks, he sat on that car, the defendants then came out with the women. Police Officer Banks had pictures of the women, compared the pictures to the women that were in the car, recognized they were the same ones. He recognized they were the same, he stopped the car, the defendants were arrested.

At that point in time they weren't sure if there were any other victims regarding the case. The women knew the home, not the address.

The police went back to the home, got permission from the landlord to go into the apartment, and recovered cell phones and a gun inside the apartment. A cell phone was

Proceedings

recovered from the car and I think a couple of beepers were also recovered from the car. That's pretty much it.

THE COURT: Okay. Now that we have some information on the warrant, Mr. Schecter, is there any argument that you wish to make?

MR. SCHECTER: Yes, your Honor. Your Honor, first, I never rested on the hearing last-- on the 19th, because that's when it came out about the eavesdropping warrant, and both myself and Ms. Pelosi wanted time to review the documentation.

Your Honor, I would normally at this time want to re-call the police officer just to ask him the number of the cellular phone that was used, because we never got into the actual number at that time, your Honor.

But I believe I spoke to Mr. Kessler and he stated that the cellular phone that was used during this incident and that was used to pinpoint the location was (919) 230-0724.

Mr. Kessler, will you stipulate to that?

MR. KESSLER: Yes, Judge. As a matter of fact, Judge, why don't we make the record. I

1 Proceedings

2 handed the Court a document that indicates the
3 phone, the extent of the permission of the
4 police to use it, and the number.

5 It is a cloned phone from a North Carolina
6 man, and that is, in fact, the number the
7 police cloned and traced in order to find the
8 defendants in Flushing.

9 MR. SCHECTER: I have no objection to that,
10 so the record would be complete, your Honor.

11 MS. PELOSI: Nor do I, your Honor.

12 THE COURT: Okay.

13 MR. SCHECTER: Your Honor, what
14 Mr. Kessler is saying then--

15 THE COURT: Are you resting on the
16 hearing?

17 MR. KESSLER: Yes, I am.

18 MR. SCHECTER: I believe he had already
19 rested, your Honor, but obviously he wants to
20 open up for this limited purpose, I have no
21 objection.

22 THE COURT: What does the defendant
23 Qin Guang Zheng wish to do?

24 MS. PELOSI: Judge, at this point he rests.

25 THE COURT: Mr. Hai Guang Zheng?

Proceedings

1
2 MR. SCHECTER: Well, your Honor, he would
3 now rest. And now I would like to make
4 argument on the motions.

5 If your Honor pleases-- well, before I--
6 Mr. Kessler is saying that this was served on
7 April 27th, I believe, at the time of the
8 Supreme Court arraignment.

9 Your Honor, I have not spoken to whoever
10 Hai Guang Zheng's attorney is in Manhattan,
11 your Honor, to ascertain whether it was
12 actually served. But if Mr. Kessler will make
13 the representation that he spoke to the
14 assistant and they said that it was served at
15 the arraignment, then I will take that
16 representation.

17 THE COURT: Is that correct?

18 MR. KESSLER: Yes, I spoke to
19 Miss Carla Friedman, I believe is the name on
20 the notice, and she indicated to me that the
21 paperwork connected with the names on the
22 notices were served at the defendants'
23 arraignment in Manhattan.

24 And I spoke to the ADA who actually typed
25 up the notice and gave to Miss Friedman to

1 Proceedings

2 serve at the arraignment, so I have been in
3 contact with Manhattan, as well.

4 MR. SCHECTER: When I did speak to my
5 client, he advised me that obviously a lot
6 happened at the arraignment but he was not
7 aware of any eavesdropping warrant being
8 served or not. But, obviously, I don't know
9 how sophisticated he would be to really know
10 whether these papers were served or not, your
11 Honor.

12 But my argument now is the case in
13 Manhattan was dismissed, Mr. Hai Guang Zheng
14 does not have the same attorney, a new
15 indictment was procured in Queens, and he was
16 arraigned on August 4, 1995 in Part AA-1
17 before Judge Naro, your Honor.

18 And that was the date that I was assigned,
19 and I believe that was the first date that
20 these proceedings were in Queens. As I
21 believe the two defendants were indicted and
22 then the case in Manhattan was dismissed, and
23 thereafter they were brought to Queens where
24 they were arraigned in Queens and had an
25 indictment.

1 Proceedings

2 This case did not come through the
3 Criminal Court System in Queens, your Honor.
4 At that time I was never served with any
5 papers about there being an eavesdropping
6 warrant, your Honor, and I didn't--

7 THE COURT: Before we get into that, was
8 there any action after the arraignment here in
9 Queens County, any action on the eavesdropping
10 warrant?

11 MR. KESSLER: No.

12 THE COURT: In other words, the
13 eavesdropping warrant was strictly a New York
14 County proposition having to do with something
15 of the arrest of these defendants in New York
16 County.

17 MR. KESSLER: Correct.

18 MR. SCHECTER: Your Honor, they were both
19 arrested in Queens. But it's part and
20 parcel--

21 Your Honor, what I'm saying is this, I was
22 never served with the eavesdropping warrant,
23 have never been served with any of the
24 conversations that were on that warrant, and I
25 don't know-- well, I know it would be Rosario

Proceedings

1
2 material and obviously may be Brady, it may be
3 Brady information on the tape.

4 But what I am claiming, your Honor, is
5 when they were arraigned on August 4th, that
6 in and of itself was a complete new matter,
7 your Honor, and as such the statute says they
8 have to inform us within 15 days of
9 arraignment, your Honor.

10 And since this is a new matter, was not in
11 Manhattan, it's a different county, the
12 district attorney's office knew that there
13 were different attorneys being assigned or
14 retained on this matter, their obligation was
15 at that time within 15 days of the Supreme
16 Court arraignment to let us know that an
17 eavesdropping warrant had been obtained.

18 It was used between-- I believe, looking
19 at the papers, was issued on April 1st and it
20 was used on April 3rd, if I'm not mistaken,
21 that's when the warrant was returned and all
22 the conversations or whatever were filed in
23 court, your Honor.

24 But what I am stating here, under statute
25 700.70, that they must serve it at the

1 Proceedings

2 That from that warrant they were able to
3 pinpoint who it was. And this would all be
4 fruits of the poisonous tree by them not
5 serving the warrant on counsel as required,
6 your Honor.

7 The statements that were made, the lineup
8 and all of the property recovered, your Honor,
9 it is my position, I believe our position - I
10 would hate to speak for co-counsel but I think
11 she may adopt the same argument - that as such
12 everything that occurred by us not being
13 served must be suppressed as fruits of a
14 poisonous tree, your Honor.

15 Which means statements that were made, the
16 lineup, your Honor, which was gleaned on-- no
17 one suppressed the arrest, your Honor, because
18 that was all gotten from this warrant, plus
19 all the property, your Honor.

20 And I submit because they did not serve
21 it, your Honor, everything that occurred at
22 the hearing and-- the Wade, Mapp and Huntley
23 hearing, the Wade, the lineup, the evidence
24 plus the statements, all must be suppressed,
25 your Honor.

1 Proceedings

2 And I would cite the case of People versus
3 Barn, 110 Appellate Division 2d 1079, which
4 held that where the Appellate Division
5 suppressed evidence seized because no notice
6 was ever given of warrant intercepting as is
7 required by statute, your Honor.

8 And I will submit to the Court that
9 because of what happened here, your Honor must
10 suppress everything that was recovered, plus
11 the lineup, plus the statements.

12 THE COURT: Do you want to add anything to
13 the argument, Ms. Pelosi?

14 MS. PELOSI: Judge, in terms of the warrant
15 issue, no, Mr. Schecter and I conferenced this
16 issue before this oral argument and I join in
17 his statements as to that.

18 I just have one further thing to state
19 pertaining to my client, Qin Zheng. That's
20 regarding the statement, if I may just do that
21 now.

22 Based on the record in this case, it's my
23 recollection that the detective, prior to
24 giving my client his Miranda warnings, said to
25 my client, come with me, come with me, you

Proceedings

1
2 give me your side of the story, you tell me
3 what happened.

4 And I would submit that that statement put
5 my client, someone who doesn't speak English,
6 who is not accustomed to methods in our
7 country, put my client in a situation which he
8 thought that he had to talk to the detective.

9 And based on that, I would ask the Court
10 to suppress the statement that my client made.

11 MR. SCHECTER: Your Honor, I believe my
12 client would be in the same position, I would
13 join in that.

14 THE COURT: Do you wish to be heard?

15 MR. KESSLER: Yes, Judge, briefly. Judge,
16 first, I think so it's clear, an eavesdropping
17 warrant-- there is no recorded conversations
18 from the eavesdropping warrant. What
19 basically happened was they were using a
20 device able to track the cellular phone.

21 The phone call conversations that were
22 recorded in this case were just from the phone
23 of the complainant, such as a suction cup on
24 the phone the police had monitored with
25 permission of the family regarding the

1 Proceedings

2 conversation that took place between the
3 kidnappers and them.

4 THE COURT: So they had the consent of one
5 of the parties.

6 MR. KESSLER: Right.

7 MR. SCHECTER: Objection, your Honor, that
8 did not come out at the hearing, there was no
9 testimony that there was consent from one of
10 the parties. The record will speak for itself
11 as to that.

12 MR. KESSLER: I'm just talking about
13 Rosario issues with regard to the hearings.
14 But what I'm saying, the phone calls they were
15 tracing, they did not record the phone calls
16 with the devices that they had.

17 It was more of a sort of an antenna trying
18 to locate where the phone call was. And the
19 officers were using this-- actually didn't
20 know what was being said because the phone
21 calls were in Chinese. And they were using it
22 to try to locate where the voices were coming
23 from.

24 With regard to the issue of the notice
25 served to the defendants regarding the

1 Proceedings

2 utilization of the eavesdropping warrant and
3 the investigation of the case, if your Honor
4 looked at the notice itself, that is the exact
5 language that was served on the defendants in
6 Manhattan.

7 And I will just rely on four or five cases
8 that will say that actual notice constitutes
9 good cause for dispensing with statutory
10 notice requirements, such as if defense
11 attorney is aware or defendants are aware of
12 it there is no need to serve notice:

13 People versus Maldonado, 144 Miscellaneous
14 2d 338. People versus Michel, 56 New York 2d
15 1014. And People versus Ocasio, 552 New York
16 Supp. 2d 514.

17 Basically indicating that there is no need
18 to give another statutory notice when they're
19 on actual notice. And the actual notice being
20 that we served the defendants copies of the
21 date of the issuance of the warrant, the date
22 it was terminated, the judge that issued it,
23 everything that was required under the notice
24 section.

25 Lastly, I would argue to the Court that

Proceedings

even if this Court were to consider that isn't actual notice of them being actually served with it in Manhattan, there is good cause why we did not have to serve it, and the statute allows us good cause reasons why we didn't have to serve it.

In this case the good cause being the fact that we served it in Manhattan. They were given actual notice of it regarding the case in Manhattan, and that is good cause why we didn't serve it here in Queens.

I would ask you that the People be allowed to introduce on their direct case the discovery and the recovery of the property, along with the evidence of the lineup.

THE COURT: The Court, having heard the hearing testimony by Detective Keith Ng and Detective Michael Green, and finding their testimony to be credible, finds that the motion to suppress the statements is denied.

The identification, the Court finds they have been properly made. And the seizure was seized based upon reasonable probable cause to arrest, and the seizure thereafter was

1 Proceedings

2 material following the arrest. And motions
3 are denied and an opinion will follow.

4 And we are going to set this down for
5 trial on May 13th. Same bail conditions, May
6 13th.

7 COURT CLERK: 5/13.

8 MR. SCHECTER: Your Honor, before-- I would
9 ask for copies of all the case tapes of
10 whatever was intercepted, your Honor - and
11 it's my understanding they're in Chinese -
12 either for translation of them or when I get
13 them, your Honor will sign an order and I will
14 get an interpreter to--

15 THE COURT: Do you have anything that was
16 transmitted in Queens?

17 MR. KESSLER: Judge, I have copies of the
18 recorded ransom demands. And if defense
19 counsel will give me some blank tapes, I will
20 make them. I just warn him, they are all in
21 Chinese.

22 THE COURT: He said he will do that.

23 MR. KESSLER: Okay, so if I get blank
24 tapes, I will make copies.

25 MS. PELOSI: There are no transcripts

1 Proceedings

2 regarding those tapes?

3 MR. KESSLER: I don't have any transcripts,
4 no.

5 THE COURT: Supply counsel with a copy of a
6 blank tape.

7 MR. SCHECTER: And then you will sign an
8 order?

9 THE COURT: Yes.

10 * * * * *
11 CERTIFIED TO BE A TRUE AND ACCURATE TRANSCRIPT OF THE
12 ORIGINAL STENOGRAPHIC MINUTES TAKEN OF THIS PROCEEDING.

13 Karyn S. Gutkin
14 KARYN S. GUTKIN
15 Senior Court Reporter
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS: PART K-25

-----x
THE PEOPLE OF THE STATE OF NEW YORK Indict. N3282/95
TRIAL

-against-

ZHENG GUANG HAI,

Defendant.

-----x
125-01 Queens Boulevard
Kew Gardens, New York
June 25, 1996

B e f o r e:

HON. STANLEY B. KATZ

A p p e a r a n c e s:

RICHARD A. BROWN, ESQ.
District Attorney, Queens County
BY: SCOTT KESSLER, ESQ.
Assistant District Attorney

DONALD SCHECHTER, ESQ.
Attorney for Defendant

YI WAN, Official Interpreter of Mandarin

CA 319/96
dy

Debra Rael
Senior Court Reporter

1 PROCEEDINGS

2 THE CLERK: Case on trial, People
3 versus Guang Hai Zheng. The record should
4 reflect the presence of the official
5 Mandarin interpreter.

6 THE COURT: At the outset, go over --
7 there is no Sandoval implication; isn't that
8 correct?

9 MR. SCHECHTER: That's correct.

10 MR. KESSLER: That's correct.

11 THE COURT: And your client has
12 previously waived his Antommarchi rights?

13 MR. SCHECHTER: That's correct.

14 THE COURT: That continues?

15 MR. SCHECHTER: Yes.

16 THE COURT: And you want me to instruct
17 the jury if he doesn't take the stand no
18 inference is to be drawn?

19 MR. SCHECHTER: Yes.

20 THE COURT: Any applications anybody
21 has?

22 MR. KESSLER: Judge, just based upon
23 the fact there were two defendants before
24 this Court, can the indictment read with
25 both defendants, I would move to amend the

1

PROCEEDINGS

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

indictment on the first count, starting with
the first count to read, "The defendant," in
the singular rather than "the defendants,"
"the defendant, being aided by another,"
instead of "each aiding the other and acting
in concert."

THE COURT: How do you want it to read.

MR. KESSLER: "The defendant, being
aided by another" and continuing on by
saying "on or about."

THE COURT: Take out the "S" in
defendants?

MR. KESSLER: Right and ending --

THE COURT: Take out the word "each"?

MR. KESSLER: And that whole phrase
"each aiding the other and acting in
concert," change it to "being aided."

THE COURT: You want it to read "The
defendant" singular, "on or about and
between March 31"?

MR. KESSLER: There's a phrase, Judge,
the phrase in place of that phrase being
"aided by another."

THE COURT: "The defendant, being aided

1 PROCEEDINGS

2 by another." Do you have any objection?

3 MR. SCHECHTER: After what has
4 happened, no. No objection.

5 THE COURT: Okay. So it's so amended.

6 MR. KESSLER: That would apply for the
7 first count, to the second count, to the
8 third count, fourth count, fifth count,
9 sixth count, seventh count, eighth count,
10 the ninth count reads as it is.

11 MR. SCHECHTER: As to the new count,
12 your Honor, since all the other counts --
13 each count will say from reading the eighth
14 count, "The Grand Jury of the County of
15 Queens accuse the defendant of the crime of
16 kidnapping in the first degree.

17 I ask that the sentence "in defendants"
18 be deleted and over here would not, and then
19 all of a sudden to mention his name, on all
20 the other counts his name is not mentioned.
21 I would like it to be consistent in that
22 part of the body.

23 THE COURT: You have no objection?

24 MR. KESSLER: Just crossing out,
25 instead of accusing the defendant, Hai

1 PROCEEDINGS

2 Guang.

3 THE COURT: Just accuse the defendant
4 of the crime of rape.

5 MR. KESSLER: That's fine.

6 THE COURT: There being no objection,
7 that's granted.

8 MR. SCHECHTER: Same thing about the
9 tenth count.

10 THE COURT: Okay.

11 MR. SCHECHTER: Twelfth count.

12 MR. KESSLER: The eleventh and twelfth
13 counts are dismissed, as they pertain only
14 to the other defendant who previously pled
15 guilty today.

16 THE COURT: All right.

17 MR. SCHECHTER: As to the fourteenth
18 and fifteenth counts, I ask that his name be
19 deleted from the top part of it.

20 THE COURT: Granted.

21 MR. KESSLER: And, Judge, the only
22 phrase that would be changed would be "The
23 defendant, being aided by another" instead
24 of "acting in concert with other persons,"
25 the thirteenth count. And the fourteenth

PROCEEDINGS

count, cross out the defendant's name. Same with the fifteenth count, sixteenth and seventeenth.

One count I'll move to dismiss, the nineteenth, twentieth and twenty first count, as those are sexual abuse as pertains to the co-defendant who previously pled guilty, so those are now out.

THE COURT: Granted.

MR. KESSLER: As an alternate to the twenty second count, instead of "the defendants" change it to the singular, "defendant," again, "The defendant, being aided by another" instead of "each aiding the other, acting in concert."

Those are the only amendments.

THE COURT: Okay. Application for both counts are granted. The eleventh and twelfth counts are dismissed, and eighteen, nineteen, twenty and twenty one we'll renumber.

(Jurors escorted into the courtroom.)

(The prospective jurors were sworn.)

THE CLERK: Jose Camacho. Raymond

PROCEEDINGS

1
2 Duryea, seat number three. Vincent
3 Delegatte. Zulma Ortiz-Rosenbaum, O-R-T-I-Z
4 - R-O-S-E-N-B-A-U-M, first name, Z-U-L-M-A.
5 Selina Alvarado. Eileen San Felice, S-A-N,
6 F-E-L-I-C-E. E-I-L-E-E-N. Richard Barrett,
7 B-A-R-R-E-T-T. John Bohlig, B-O-H-L-I-G.
8 Donna Weinstock. Harry Siegel, S-I-E-G-E-L.
9 Marios, M-I-C-A-L-E-V. Dennis Crotty,
10 C-R-O-T-T-Y. Robert Hubert. Roseanne
11 Arena. Giovanni Urena, G-I-O-V-A-N-N-I.
12 Ann Fittinger, F-I-T-T-I-N-G-E-R.

13 THE COURT: Good afternoon, ladies and
14 gentlemen. My name is Stanley B. Katz. I'm
15 the presiding judge assigned to the trial of
16 this case. I intend to make a statement to
17 you, a short statement to ask you certain
18 questions. I'd be very grateful if everyone
19 in the courtroom would pay very careful
20 attention to what I say. You may be seated,
21 because those of you in the back may be
22 called upon to sit in the jury box during
23 the course of jury selection.

24 The purpose of my questions is to
25 choose twelve citizens to serve as jurors at

PROCEEDINGS

1
2 this trial who will act fairly, without
3 prejudice of any kind. There is a grave
4 obligation on your part to respond to the
5 questions that are asked of you, to answer
6 them fully, candidly and truthfully. There
7 are no right or wrong answers to any of the
8 questions, only truthful answers.

9 This is the trial of a criminal case.
10 Every person appearing before this Court is
11 entitled to and must receive a fair trial
12 and an impartial trial. This fairness and
13 impartiality, this lack of bias, must be
14 accorded in equal measure both to the People
15 and the defendant.

16 This case involves the trial of
17 criminal charges brought by the People of
18 the State of New York against the defendant
19 Guang Hai Zheng. The charges against the
20 defendant are contained in an indictment
21 which alleges that the defendant committed
22 certain criminal acts. They are four counts
23 of kidnapping in the first degree, two
24 counts of rape in the first degree, one
25 count of kidnapping in the second degree,

PROCEEDINGS

1
2 three counts of sexual abuse in the first
3 degree and one count of criminal possession
4 of a weapon in the second degree.

5 The indictment, ladies and gentlemen,
6 is merely the instrument by which the State
7 of New York brings into court individuals it
8 claims to have violated the law. The
9 prosecution conducted against the defendant
10 for the alleged commission of crimes is
11 brought in the name of the People of the
12 State of New York.

13 The indictment is not evidence of the
14 guilt or innocence of the defendant.
15 Indeed, the defendant is presumed to be
16 innocent and this presumption of innocence
17 remains with and continues with the
18 defendant throughout the trial unless and
19 until the jury, having considered all of the
20 evidence, shall find the defendant is guilty
21 beyond a reasonable doubt of the charges
22 made against him.

23 The jury decides questions of fact, the
24 jury listens to the testimony of the
25 witnesses, examines the evidence which is

PROCEEDINGS

received during the course of the trial, and at the conclusion of the trial it's my province as a judge to instruct the jury as to the law which is applicable to this case.

The jury is bound to follow my instructions as to the law whether you agree with the law or not. The jury is the exclusive judges of the facts and it alone determines whether the People have proved the charges with respect to this defendant beyond a reasonable doubt.

So, it will be the duty of the jury to weigh the evidence calmly, dispassionately, without any sympathy or prejudice whatsoever. And should the jury convict the defendant, you would have nothing to do with any sentence or punishment to be imposed upon the defendant.

Now, you just heard me use the words "beyond a reasonable doubt." Now, there must come to your mind the question of what do we mean when we use the term "reasonable doubt."

There is nothing mysterious about these

1 PROCEEDINGS

2 words because implicit within them is their
3 very meaning. It means exactly what the
4 words themselves imply. A reasonable doubt
5 is a doubt based upon reason. It's a doubt
6 for which a juror can give a reason if he or
7 she is called upon to do so in the jury
8 room. It's a doubt based upon the evidence
9 or lack of evidence in the case.

10 A reasonable doubt is defined as an
11 actual doubt, a doubt that you are conscious
12 of having after going over in your mind the
13 entire case and given consideration to all
14 of the testimony and every part of it.

15 If you then feel uncertain and not
16 fully convinced that the defendant is
17 guilty, and you believe as a reasonable
18 person who hesitates to act because of such
19 a reasonable doubt, then that is a
20 reasonable doubt and this defendant is
21 entitled to its benefit, a verdict of not
22 guilty with respect to the crime or crimes
23 that you have been deliberating on.

24 This does not mean that a reasonable
25 doubt may be predicated upon some type of

PROCEEDINGS

whim, or surmise, or guess or conjecture on the part of a juror, nor should it be considered or used for some type of a shield behind which a juror might hide in order to avoid doing what he or she may feel is a disagreeable duty.

Now, there is no obligation on the part of the People to establish the element of a crime with which the defendant may be charged beyond any or all doubt to a mathematical certainty because you can't get such a degree of proof in human affairs.

Now, I also call to your attention under the law a defendant is presumed to be innocent. That presumption remains with him throughout the trial. He's cloaked with the protection of this presumption, even when you go into the jury room to commence deliberations. It remains with him until that moment arrives when you as jurors are convinced from the proof submitted by the People that he is guilty of the crime or crimes with which he is charged beyond a reasonable doubt. When that point is

PROCEEDINGS

reached, the presumption of innocence is voided and no longer exists.

This necessarily places upon the People the burden of adducing such proof. It means also that the People must establish every element of the crime or crimes with which the defendant is charged to your satisfaction and beyond a reasonable doubt.

The defendant is entitled to the benefit of every reasonable doubt arising out of the evidence or lack of evidence in the case. The defendant does not to have prove anything. He's not required to take the witness stand and testify in his own defense. If he does not take the witness stand, his not doing so does not create any presumption or inference that may be used against him. Further, the defendant does not have to call any witnesses.

As to those of you who may be challenged by counsel for either of the parties, please be advised that counsel for the respective parties have a right to challenge prospective jurors for cause.

PROCEEDINGS

That is, either counsel may have the opinion that a particular prospective juror is not qualified for or disqualified from service here by reason of some fact which may effect his or her impartiality as a juror.

In addition, the attorneys for the respective parties have an absolute right to excuse a number of jurors for arbitrary reasons without assigning any ground theretofore. That is called a peremptory challenge.

From time to time during the course of the trial, counsel will interrupt, and that is perfectly proper because there are matters to be discussed between counsel and the Court which should not be heard within the hearing of the jury. When that happens we have what we call a sidebar, that we will step up to the bench here, and when that perhaps happens you will know we are discussing legal matters which should not be properly discussed before the jury.

Now, a fair trial must start with a fair jury. And to be fair, you must come to

PROCEEDINGS

1
2 this jury box without any preconceived
3 reservations or notions. This examination
4 may bring back to your mind some experience
5 or relationships that may effect your fair
6 determination of this case. A fair
7 determination is one based upon all of the
8 evidence, free of bias, prejudice or
9 sympathy and in accordance with the outcome
10 of the law as I will give it to you.

11 At this point, before counsel and I ask
12 you some questions I would like to read
13 Section 260.30 of the Criminal Procedure Law
14 so as to familiarize you with the procedure,
15 order of procedure in a criminal trial, and
16 Section 26.30 states that the conduct of a
17 jury trial is as follows: One, the jury
18 must selected and sworn; two, the Court must
19 deliver preliminary instructions to the
20 jury; three, the People must deliver an
21 opening address to the jury; four, the
22 defendant may deliver an opening address to
23 the jury; five, the People must offer
24 evidence in support of the indictment; 6,
25 the defendant may offer evidence in his

PROCEEDINGS

1
2 defense; seven, the People may offer
3 evidence in rebuttal of the defense evidence
4 and -- the People may offer evidence in
5 rebuttal of defense evidence and the
6 defendant may then offer evidence in
7 rebuttal of the People's rebuttal evidence.

8 The Court may in its discretion permit
9 the parties to offer further rebuttal or
10 surrebuttal evidence in this pattern. In
11 the interest of justice, the Court may
12 permit either party to offer evidence upon
13 rebuttal which is not technically of a
14 rebuttal nature but more properly a part of
15 the overall case; eight, at the conclusion
16 of the evidence the defendant may deliver a
17 summation to the jury; nine, the People may
18 then deliver a summation to the jury; ten,
19 the Court must deliver a charge to the jury;
20 eleven, the jury must then retire and
21 deliberate and, if possible, render a
22 verdict.

23 Please, therefore, answer the following
24 questions fully, candidly and directly. Do
25 any of you, ladies and gentlemen, have any

PROCEEDINGS

1
2 reservations about being able to follow
3 these principles that I've just enunciated
4 to you?

5 It doesn't appear anyone has.

6 I mentioned to you that the defendant
7 in this case is Guang Hai Zheng.

8 Mr. Zheng, would you please stand up
9 and face the prospective jurors in the jury
10 box, and the prospective jurors in the back
11 of the courtroom.

12 Do any of you, ladies and gentlemen,
13 know, have you ever seen or ever heard of
14 Mr. Zheng before?

15 It doesn't appear anyone has.

16 Now, the defendant's lawyer in this
17 case, Mr. Donald Schechter, also face the
18 prospective jurors.

19 MR. SCHECHTER: Good afternoon.

20 THE COURT: Have any of you have heard
21 or seen Mr. Schechter before?

22 It doesn't appear anyone has.

23 Now, the District Attorney of this
24 county is Richard A. Brown. I imagine many
25 of you have read about or heard about or

PROCEEDINGS

1
2 seen him on television or seen his picture
3 in the newspaper, but have any of you had
4 any social or personal or business dealings
5 at all with Mr. Brown?

6 It doesn't appear anyone has.

7 The Assistant District Attorney who
8 will actually try this case for the People
9 is Mr. Scott Kessler.

10 Would you please face the prospective
11 jurors.

12 MR. KESSLER: Good afternoon.

13 THE COURT: Now, do any of you, ladies
14 and gentlemen, know of, ever heard or seen
15 Mr. Kessler?

16 It doesn't appear anyone has.

17 I'm going to read the name of some
18 prospective witnesses. Please listen to
19 them and see if you recognize any of these
20 names: Guo Bang Liu, Jin Hao Liu, Liu Yan
21 Wu, Jin Zho Liu, Detective Henry Lee,
22 Detective Keith Ng, Detective Keith Banks,
23 Detective Michael Greene, chemist Tom
24 Hickey, Police Officer Kevin Streine,
25 Dr. John Kurtz, and Dr. Matt Murphy.

PROCEEDINGS

Any of you think you've heard of those people, perhaps know them?

It doesn't appear anyone has.

I should note that the fact that this action is brought in the name of the People of the State of New York or that the evidence is presented by a public official does not necessarily indicate in any way that the people of this state want a specific verdict. The people of this state are served by whatever verdict is justified by the evidence.

Now, the court officer will hand out questionnaires to you. As soon as you have them I'll explain to you how to answer them familiarize yourself with the questionnaires and answer them in a expeditious manner.

(Handing out questionnaires.)

THE COURT: I have a copy of the questionnaire, so does the District Attorney, so does the defense counsel, we know what the questions are. What I'm asking you to do is give us the number of the question. If you'd please pay

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROCEEDINGS

attention, give me the number of the question that you are answering, and the answer to the question.

The first six questions require a specific answer, the others you just answer yes or no. We'll start with you.

PROSPECTIVE JUROR: Okay. Question number one 61. Question number two, Ozone Park. Three, retired postal supervisor. Number four, I am married. Five, I have high school. Six, my wife is a housewife, doesn't work.

THE COURT: That's work.

PROSPECTIVE JUROR: Any children. They all already grown up. Work for the post office, Transit, for the city.

THE COURT: What kind of work do they do for the city?

PROSPECTIVE JUROR: My son works for the Transit, actually that's the state, New York City Transit.

THE COURT: All right. Any of them police officers?

PROSPECTIVE JUROR: No.

1 PROCEEDINGS

2 THE COURT: Okay.

3 PROSPECTIVE JUROR: Number seven, yes.
4 I have served on civil and criminal cases.
5 Number eight, not that I can think of right
6 now. Nine, I don't. I know a retired
7 judge, Judge Quinones.

8 THE COURT: He's not retired. He's on
9 the New York Court of law.

10 PROSPECTIVE JUROR: Okay. Number ten,
11 no. Eleven, yes, New York. Number twelve,
12 no. Thirteen, no. Fourteen, no. Fifteen,
13 no. Sixteen, yes.

14 THE COURT: Thank you.

15 PROSPECTIVE JUROR: Question one, fifty
16 seven. Two, Maspeth, Queens. Three, work
17 for the Department of Environmental
18 Protection. Four, married. Five, high
19 school grad. My wife is an account
20 executive for Lincoln Center, my daughter a
21 hairdresser and my son is a police officer.

22 THE COURT: That's question six?

23 PROSPECTIVE JUROR: Yes. Seven, yes.
24 Criminal case. Eight --

25 THE COURT: When was that?

1 PROCEEDINGS

2 PROSPECTIVE JUROR: About three, four
3 years ago.

4 THE COURT: Thank you.

5 PROSPECTIVE JUROR: Nine, no. Ten, no.
6 Eleven, yes. Twelve, no. Thirteen, no.
7 Fourteen, yes. I was in the military,
8 United States Marine Corps. Fifteen, no.
9 Sixteen, yes.

10 THE COURT: Thank you. Next.

11 PROSPECTIVE JUROR: Number one, 47.
12 Number two, Whitestone. Number three, I
13 drive for Getty Oil Company, I'm a truck
14 driver. Four, divorced. Five, twelve
15 years, high school. Six, I have a spouse
16 who works as bookkeeper, I have a daughter
17 in school, and I have a son who works for a
18 car dealership. Number seven, no. Eight,
19 no. Nine, no. Ten, no. Eleven, no.
20 Twelve, no. Thirteen, I don't think so.
21 Fourteen, I was in the U.S. Army, I was an
22 MP. Fifteen, just my hearing in my right
23 ear is not so good as my left. Sixteen, I
24 guess not, I don't think so.

25 THE COURT: Next.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROCEEDINGS

PROSPECTIVE JUROR: One, thirty seven.
Two, Richmond Hill. Three, manager at a
bank. Four, married. Five, I have a
bachelor's degree. Six, husband works for
the New York Stock Exchange. My oldest
daughter is in college. Seven, no. Eight,
yes. Nine, no. Ten, yes. Eleven, yes.
Twelve, no. Thirteen, no. Fourteen, no.
Fifteen, no. Sixteen, no.

THE COURT: Thank you.

PROSPECTIVE JUROR: Sixteen was yes.

THE COURT: Yes?

PROSPECTIVE JUROR: Yes.

THE COURT: Thank you.

PROSPECTIVE JUROR: 54.

THE COURT: Give us the number of the
question.

PROSPECTIVE JUROR: One fifty four.
Number two, Queens. Three, I don't know.
Number four, I am married. Five, I don't
understand the words. Six, my son, he's
seventeen. Seven, no. Eight, no. Nine,
no. Ten, no. Eleven, no. Twelve, no.
Thirteen, no. Fourteen, no. Fifteen, no.

1 PROCEEDINGS

2 Sixteen, no.

3 THE COURT: Thank you.

4 PROSPECTIVE JUROR: Number one, sixty
5 four. Number two, Forest Hills. Three,
6 administrative assistant. Four, widow.
7 Five, two years college. Six, one son is an
8 accountant, one is on disability. Yes, I
9 served on a jury, it was a rape case, about
10 ten years ago. Number eight, no. Nine,
11 yes. Ten, no. Eleven, no. Number ten is
12 yes. My son was accused of harassment.
13 Eleven, no. Twelve, no. Thirteen, no.
14 Fourteen, no. Fifteen, no. Sixteen, yes.

15 THE COURT: Thank you.

16 PROSPECTIVE JUROR: One, twenty four.
17 Two, I live in Astoria, Queens. Three, bus
18 operator for Transit Authority in Manhattan.
19 Four, single. Five, I have a bachelor's
20 degree. Six, doesn't apply. Never served
21 on a jury. I have relatives in law
22 enforcement.

23 THE COURT: Give us the number of the
24 question. That's for the record.

25 PROSPECTIVE JUROR: Number six didn't

PROCEEDINGS

1
2 apply, I'm single. Number seven, no.
3 Number eight, yes. Nine, yes. Ten, no.
4 Eleven, no. Twelve, no. Thirteen, no.
5 Fourteen, no. Fifteen, no. Sixteen, yes.

6 PROSPECTIVE JUROR: Number one, 31.
7 Two, Rego Park. Three, sheet metal worker.
8 Number four, I'm single. Five, two years
9 college. Number six, does not apply. Seven
10 is no. Number eight, yes. My uncle was a
11 police officer. My cousin was in a military
12 policeman. Number nine, yes. I have a
13 number of lawyers in my family and friends
14 and the girls I've dated. Ten, no. Eleven,
15 yes. If my car was stolen does that count?

16 THE COURT: Yes, sir.

17 PROSPECTIVE JUROR: Then I'm a victim.
18 Twelve, no. Thirteen, no. Fourteen no.
19 Fifteen, no. Sixteen, no.

20 THE COURT: Thank you. Next.

21 PROSPECTIVE JUROR: Number one, twenty
22 eight. Number two Bayside. Number three,
23 teacher. Number four, single. Five,
24 college grad, I'm in grad school. Number
25 six, does not apply. Seven, no. Eight,

PROCEEDINGS

yes. Next door neighbor is a policeman.
Number nine, yes. My brother is a lawyer
and I have a family friend that is a judge
in court, Criminal Court. Number ten, no.
Eleven, yes. My car was stolen twice last
month, it was broken into. My sister's
house was broken into. Twelve, no. 13, no.
Fourteen, no. Fifteen, no. 16, I guess
not.

THE COURT: Thank you. Next.

PROSPECTIVE JUROR: One, seventy.
Number two, Flushing. Number three,
insurance company. Four, married. Five, a
couple of years of college. Number six, my
wife is a housewife. Seven, yes. Many
years ago. Number eight, yes. I have a few
friends that are policemen. Number nine,
yes. I have a few friends that are lawyers.
Ten, no. Eleven, yes. Number twelve, no.
Thirteen, no. Fourteen, yes, infantry.
Number fifteen, no. Sixteen, yes.

THE COURT: Thank you.

PROSPECTIVE JUROR: Number one, forty
four. Queens.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROCEEDINGS

THE COURT: Give us the number.

PROSPECTIVE JUROR: I'm sorry. Number two, Queens. Number three, limo driver. Number four, yes. Five, high school. Number six, housewife, two kids in school. Seven, no. Eight, my landlord is a policeman. Nine, no. Ten, no. Eleven, yes. Twelve, no. Thirteen, yes. Fourteen, no. Fifteen, no. Sixteen, yes.

THE COURT: Thank you.

PROSPECTIVE JUROR: One, forty. Number two, Rego Park. Number three, drive a truck. Four, single. Five, high school. Six, does not apply. Seven, no. Number eight, no. Nine, no. Ten, no. Eleven, yes. Twelve, no. Thirteen, no. Fourteen, no. Fifteen no. Sixteen, no.

THE COURT: Thank you.

PROSPECTIVE JUROR: Number one, forty. Number two, Middle Village. Three, Brooklyn Union Gas Company. Four, divorced. Number five, high school. Six, no spouse. Number seven, served on a jury eight months ago, it was a murder case.

1 PROCEEDINGS

2 THE COURT: Eight months ago?

3 PROSPECTIVE JUROR: Yes, approximately
4 eight months ago.

5 THE COURT: Go ahead.

6 PROSPECTIVE JUROR: Number eight, yes.
7 Number nine, no. Number ten, yes. Number
8 eleven, yes. Number twelve, no. Thirteen,
9 no. Fourteen, no. Fifteen, no. Sixteen,
10 no.

11 THE COURT: Thank you.

12 PROSPECTIVE JUROR: I don't have a
13 speech, you know, I have a speech
14 impediment.

15 THE COURT: Speech impediment?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: All right. Let's go to the
18 next two. Is that all right with you,
19 counsel?

20 MR. SCHECHTER: No problem.

21 MR. KESSLER: No problem.

22 PROSPECTIVE JUROR: One, twenty eight.
23 Two, Borough of Queens. Paralegal, three.
24 Four, divorced. Five, four years college,
25 no degree. Six, not applicable. Seven, no.

1 PROCEEDINGS

2 Eight, yes. Nine, yes. Ten, yes. Eleven,
3 yes. Twelve, yes. Thirteen, no. Fourteen,
4 no. Fifteen, no. Sixteen, yes.

5 THE COURT: Thank you.

6 MR. SCHECHTER: Number one, fifty five.
7 Number two, Astoria. Number three, work for
8 a doctor. Number four, married. Five, high
9 school. Six, spouse is retired. I have a
10 daughter in high school. Number seven, no.
11 Number eight, yes. Number nine, no. Number
12 ten, no. Number eleven, yes. Number
13 twelve, no. Number thirteen, no, number
14 fourteen, no. Fifteen, no. 16, no.

15 THE COURT: Thank you. Counsel, you
16 may inquire.

17 MR. KESSLER: Okay.

18 Good afternoon my name is Scott
19 Kessler. I'm an Assistant District
20 Attorney. I want to welcome come you to the
21 American court of law. This is the place
22 where as the judge has told you, we are
23 seeking twelve fair and impartial jurors. A
24 number of people have already said based on
25 the questionnaire that they couldn't be fair

1 PROCEEDINGS

2 and impartial one way or the other.

3 Miss Weinstock, you were one of those
4 people?

5 PROSPECTIVE JUROR: Yes.

6 MR. KESSLER: You were a teacher?

7 PROSPECTIVE JUROR: Yes.

8 MR. KESSLER: And you have a college
9 degree?

10 PROSPECTIVE JUROR: Yes.

11 MR. KESSLER: Is there anything in a
12 criminal case that you say you couldn't be
13 fair or just something about this case?

14 PROSPECTIVE JUROR: The rape portion.

15 MR. KESSLER: You don't like to hear
16 about those things?

17 PROSPECTIVE JUROR: No.

18 MR. KESSLER: Do you think there are
19 twelve people who want to hear about rape?

20 PROSPECTIVE JUROR: No.

21 MR. KESSLER: I hope not. The question
22 is simply, obviously, no one likes to hear
23 about it, it affects everyone one way or the
24 other. We are trying to find twelve people
25 who will say to themselves, I'll decide this

1 PROCEEDINGS

2 case on the facts, not upon what I feel
3 about rape or don't feel about rape.

4 For example, if I find that these women
5 were raped and kidnapped, and this defendant
6 was responsible, I'll find him guilty. If I
7 find that he was not responsible or if they
8 were not raped and kidnapped, I'll find him
9 not guilty. Let the cards fall where they
10 may.

11 PROSPECTIVE JUROR: Yes.

12 MR. KESSLER: Just based on the fact
13 he's charge with rape do you automatically
14 assume, therefore, that even if I don't
15 prove his guilt to you, you are still going
16 to find him guilty anyway?

17 PROSPECTIVE JUROR: Well --

18 THE COURT: Is this the man who
19 bothered you on a train?

20 PROSPECTIVE JUROR: No.

21 MR. KESSLER: You seem like an
22 intelligent woman. If I don't prove to you
23 his guilt beyond a reasonable doubt, you
24 don't think he's guilty of this crime, you
25 still are going to walk into the courtroom

1 PROCEEDINGS

2 and say you're guilty because --

3 PROSPECTIVE JUROR: I guess not, okay.

4 MR. KESSLER: If I prove to you beyond
5 a reasonable doubt that he is guilty, can
6 you stand up in this courtroom and find him
7 guilty?

8 PROSPECTIVE JUROR: I guess I could.

9 MR. KESSLER: Okay. You understand?

10 PROSPECTIVE JUROR: Yeah.

11 MR. KESSLER: Do you think you could be
12 fair and impartial, decide this case on the
13 evidence you hear and not to decide it on
14 what anyone looks like, their race, creed,
15 whatever; you understand how that works
16 right.

17 PROSPECTIVE JUROR: Yeah.

18 MR. KESSLER: Okay. Do you think you
19 do that?

20 PROSPECTIVE JUROR: I think so.

21 MR. KESSLER: Mr. Siegel is it?
22 Obviously, you understand this case. One of
23 the charges, there are sixteen separate
24 charges, one is rape. Have you ever spoken
25 to a woman who told you at one point she was

1 PROCEEDINGS

2 a victim of rape?

3 PROSPECTIVE JUROR: My daughter.

4 MR. KESSLER: Okay.

5 You understand that this case has to be
6 decided on the facts here? You were a juror
7 before?

8 PROSPECTIVE JUROR: Yes.

9 MR. KESSLER: Okay. And you understand
10 that you have to decide the facts, what
11 occurred here, is the person responsible,
12 let the cards fall where they may?

13 PROSPECTIVE JUROR: I can.

14 MR. KESSLER: Terrific.

15 Mr. Micalev, okay, any problem with one
16 of the charges on this case being rape?

17 PROSPECTIVE JUROR: Well, I can't judge
18 anybody. According to the Bible that I
19 read, I can't Judge.

20 MR. KESSLER: Okay. I'll move on.

21 Mr. Crotty.

22 PROSPECTIVE JUROR: Yes.

23 MR. KESSLER: You indicated that you
24 couldn't be a fair and impartial juror, is
25 that right?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROCEEDINGS

PROSPECTIVE JUROR: Yes.

MR. KESSLER: Okay. Is that based upon criminal cases in general or just this case?

PROSPECTIVE JUROR: I don't know, that's why I said that.

MR. KESSLER: You don't know if you would. Let me ask you the key question. At the end this of case, I fail to prove to you this man's guilty of what he's charged with, can you come into the courtroom and say not guilty or are you going to find him guilty even though I --

PROSPECTIVE JUROR: If you don't prove it not guilty?

MR. KESSLER: Not guilty.

PROSPECTIVE JUROR: Right.

MR. KESSLER: At the end of this case, you listen to the evidence, and you find that he did what he's charged with by kidnapping and raping these women, do you have any problem walking into the courtroom and finding him guilty?

PROSPECTIVE JUROR: No.

MR. KESSLER: So, when you say you're

1 PROCEEDINGS

2 not sure you could be fair and impartial,
3 would you agree, based upon those two simple
4 questions, you think you would be a fair and
5 impartial juror?

6 PROSPECTIVE JUROR: Yeah.

7 MR. KESSLER: Anything that is holding
8 you back one way or the other?

9 PROSPECTIVE JUROR: No.

10 MR. KESSLER: Okay. Anything his
11 defense counsel should know about?

12 PROSPECTIVE JUROR: No.

13 MR. KESSLER: Okay. Terrific. Thanks.

14 Pretty simple, right, when you think
15 about it? How about you, Miss Ortiz-Rosa?

16 PROSPECTIVE JUROR: Rosenbaum.

17 MR. KESSLER: I'm sorry. You had
18 indicated that you couldn't be a fair and
19 impartial juror, someone from your family
20 had been accused of a crime?

21 PROSPECTIVE JUROR: Yes.

22 MR. KESSLER: You want to talk about
23 that in public or would you prefer, if you
24 want, at sidebar?

25 PROSPECTIVE JUROR: No, I don't have a

1

PROCEEDINGS

2

problem. I have could two cousins, one is
3 serving time, the other has served time,
4 both for drugs.

5

MR. KESSLER: Okay. Did you follow
6 those cases?

7

PROSPECTIVE JUROR: No.

8

MR. KESSLER: Did they occur here in
9 Queens?

10

PROSPECTIVE JUROR: No.

11

MR. KESSLER: Did you ever speak to
12 your cousins about those cases, or family
13 members?

14

PROSPECTIVE JUROR: No.

15

MR. KESSLER: Do you have any problem
16 the way the prosecution handled the cases?

17

PROSPECTIVE JUROR: I wasn't involved.

18

MR. KESSLER: Okay. So you have no
19 grudges against the prosecution or defense
20 counsel?

21

PROSPECTIVE JUROR: No.

22

MR. KESSLER: Some people may. Any
23 reason you can think of you couldn't be a
24 fair and impartial juror?

25

PROSPECTIVE JUROR: I may have a

PROCEEDINGS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

problem.

MR. KESSLER: You may have a problem?

MR. SCHECHTER: Maybe.

MR. KESSLER: Let me ask you something, have you spoken to anyone who told you they had been a victim of a crime?

PROSPECTIVE JUROR: Yeah.

MR. KESSLER: And, during that conversation that you had with them, was it an easy thing for them to tell you about or difficult?

PROSPECTIVE JUROR: Difficult.

MR. KESSLER: Okay. Do you think in this case, for example, if a person came in here and told you they were a victim of a rape, do you think that would be an easy thing for them to do or tough thing to do in the courtroom?

MR. SCHECHTER: Objection.

MR. KESSLER: Can you promise if you're chosen as a juror in this case, you would take this woman on the stand, and judge her credibility, or there's if more than one woman, their credibility, using the same

1 PROCEEDINGS

2 common sentence that you judge anyone else?
3 Can you do that?

4 PROSPECTIVE JUROR: Yes.

5 MR. KESSLER: Okay. Can you promise me
6 that you'll put aside the feelings you had
7 about the persons who told you they were
8 raped and decide this case based upon the
9 law and the evidence that applies here? You
10 can't decide it based upon other things that
11 have happened to you or bad feelings you
12 have one way or another? You understand
13 that?

14 PROSPECTIVE JUROR: Yes.

15 MR. KESSLER: Do you think you can do
16 that in this case?

17 PROSPECTIVE JUROR: Yes.

18 MR. KESSLER: If at the end of the case
19 I prove to you the defendant's guilt of
20 these charges beyond a reasonable doubt,
21 what's your verdict?

22 PROSPECTIVE JUROR: Guilty.

23 MR. KESSLER: Okay. If I fail to prove
24 his guilt beyond a reasonable doubt?

25 PROSPECTIVE JUROR: Not guilty.

1 PROCEEDINGS

2 MR. KESSLER: Can you let the cards
3 fall where they may?

4 PROSPECTIVE JUROR: Yes.

5 MR. KESSLER: Do you consider yourself
6 a pretty fair person?

7 PROSPECTIVE JUROR: Yes.

8 MR. KESSLER: That's all I ask, thank
9 you.

10 Mr. Camacho, how are you?

11 THE COURT: By the way, what judge did
12 you say you knew that's retired?

13 PROSPECTIVE JUROR: Quinones.

14 THE COURT: He is retired.

15 MR. KESSLER: Mr. Camacho, you and
16 another person indicated you didn't think
17 you could be fair and impartial in this
18 case?

19 PROSPECTIVE JUROR: I said that?

20 MR. KESSLER: Maybe I got it wrong.
21 Can you be?

22 THE COURT: He didn't say that.

23 MR. KESSLER: I'm sorry, I'm looking at
24 it backwards.

25 THE COURT: I don't have notes and I

1 PROCEEDINGS

2 know what people say.

3 MR. KESSLER: Any reason why you can't
4 be fair and impartial?

5 PROSPECTIVE JUROR: No.

6 MR. KESSLER: If I prove to you the
7 defendant's guilt beyond a reasonable doubt,
8 at the end of this case what would be your
9 verdict?

10 PROSPECTIVE JUROR: When it comes up,
11 there and then I'll judge whatever I see.

12 MR. KESSLER: Okay. Let's say at the
13 end of this case you find that I have proven
14 to you the defendant's guilt, beyond a
15 reasonable doubt, as the Judge defines that,
16 your verdict?

17 PROSPECTIVE JUROR: Guilty.

18 MR. KESSLER: If I fail?

19 PROSPECTIVE JUROR: Not guilty.

20 MR. KESSLER: Any problems deciding
21 this case on the law and the evidence, using
22 your common sense?

23 PROSPECTIVE JUROR: No.

24 MR. KESSLER: Mr. Duryea, how are you?
25 Any problem sitting on this type of case?

1 PROCEEDINGS

2 PROSPECTIVE JUROR: No.

3 MR. KESSLER: Ever spoken to anyone who
4 was a victim of a rape?

5 PROSPECTIVE JUROR: No.

6 MR. KESSLER: Any preconceived notions
7 on what people who are victims of rape are
8 supposed to look or sound like when they are
9 on the stand?

10 PROSPECTIVE JUROR: Not at all.

11 MR. KESSLER: What do you think, if
12 you're chosen as a juror, the most important
13 attribute a juror has?

14 PROSPECTIVE JUROR: I guess to weigh
15 all the evidence, come out with whatever the
16 facts prove.

17 MR. KESSLER: If the facts prove to you
18 the defendant's are guilty -- the defendant
19 is guilty of this crime as charged, what
20 would your verdict can?

21 PROSPECTIVE JUROR: Guilty.

22 MR. KESSLER: If you found I haven't
23 proven his guilt?

24 PROSPECTIVE JUROR: Innocent.

25 MR. KESSLER: Not guilty? Do you have

1

PROCEEDINGS

2

any problem following the Judge's

3

instructions on the law as he gives it to

4

you?

5

PROSPECTIVE JUROR: No.

6

MR. KESSLER: Do you promise me you'll

7

hold me to that standard?

8

PROSPECTIVE JUROR: Definitely.

9

MR. KESSLER: Okay. You understand

10

that, you told me that it's not, you know,

11

beyond all doubt or shadow of a doubt but

12

reasonable doubt; you understand that?

13

PROSPECTIVE JUROR: Yes.

14

MR. KESSLER: It's not mathematical

15

certainty. For example, you're not a

16

hundred percent sure, but you're sure beyond

17

a reasonable doubt, your verdict would have

18

to be?

19

PROSPECTIVE JUROR: Guilty.

20

MR. KESSLER: Any problem with that at

21

all?

22

PROSPECTIVE JUROR: Not at all.

23

MR. KESSLER: Okay. Mr. Barrett, how

24

are you?

25

PROSPECTIVE JUROR: Fine.

1 PROCEEDINGS

2 MR. KESSLER: You can be fair and
3 impartial?

4 PROSPECTIVE JUROR: Yes.

5 MR. KESSLER: How about that concept
6 about, you know, nothing in this courtroom
7 is required to be proven to a mathematical
8 certainty, I have to prove the defendant's
9 guilt beyond a reasonable doubt. Do you
10 have a problem with that standard of proof?

11 PROSPECTIVE JUROR: No, I don't.

12 MR. KESSLER: What about the
13 presumption of innocence, do you believe in
14 that?

15 PROSPECTIVE JUROR: Yes.

16 MR. KESSLER: For example, if I were
17 to, you know, all of a sudden take out a gun
18 and shoot the court reporter in front of you
19 twelve, if I went to trial what would be the
20 presumption?

21 PROSPECTIVE JUROR: Presumed innocent.
22 It's your job to --

23 MR. KESSLER: With the facts and
24 evidence?

25 PROSPECTIVE JUROR: Right.

1 PROCEEDINGS

2 MR. KESSLER: What do you think about
3 presumption of innocence, do you think it's
4 important?

5 PROSPECTIVE JUROR: Yes.

6 MR. KESSLER: You think it's probably
7 the most important right?

8 PROSPECTIVE JUROR: Yes.

9 MR. KESSLER: Great. Ever hear that
10 saying, don't look too closely into the
11 trees, you may not see the forest?

12 PROSPECTIVE JUROR: I've heard it.

13 MR. KESSLER: Are you one of those
14 people who step back, take a look at this,
15 what happened here and decide using your
16 common sense, taking a look to see whether
17 or not there are forests in front of you?

18 PROSPECTIVE JUROR: I think so, yeah.

19 MR. KESSLER: You agree some people
20 look too closely at the trees?

21 PROSPECTIVE JUROR: Yes.

22 MR. KESSLER: Great.

23 Miss Urena, could you be a fair and
24 impartial juror?

25 PROSPECTIVE JUROR: Yes.

PROCEEDINGS

1
2 MR. KESSLER: Anything about the
3 charges themselves that cause you to think
4 you wouldn't be fair and impartial?

5 PROSPECTIVE JUROR: No.

6 MR. KESSLER: You believe in the
7 presumption of innocence?

8 PROSPECTIVE JUROR: Yeah.

9 MR. KESSLER: Do you have any problem
10 then in case I prove to you the defendant's
11 guilt beyond a reasonable doubt, what would
12 your verdict be?

13 PROSPECTIVE JUROR: Guilty.

14 MR. KESSLER: Any problem standing up
15 in this courtroom, looking at him in the
16 eye, saying he's guilty?

17 PROSPECTIVE JUROR: No.

18 MR. KESSLER: Suppose at the end of
19 this case, you're chosen as a juror, one of
20 the jurors comes up to you and says, you
21 know what? The DA proved his case beyond a
22 reasonable doubt, I believe the defendant
23 did everything he's charged with. But I
24 look over there and he doesn't look like a
25 person who would do something like that.

1

PROCEEDINGS

2

What, if anything, would you say to that juror?

3

4

PROSPECTIVE JUROR: You got to weigh

5

the facts, not his looks. It's not his

6

appearance that matters, it's what he did,

7

what the facts were.

8

MR. KESSLER: Do you have any ideas

9

what a person who commits rape?

10

PROSPECTIVE JUROR: It could be the

11

most innocent-looking person with a baby

12

face, sitting anywhere in the audience. It

13

could be anyone. They don't look like

14

anyone particular.

15

MR. KESSLER: Do you think looks or

16

religion or race has anything to do with

17

your deliberations at all?

18

PROSPECTIVE JUROR: No.

19

MR. KESSLER: Can you promise me you'll

20

keep them out and decide this case on the

21

facts and the law?

22

PROSPECTIVE JUROR: Yes.

23

MR. KESSLER: Great.

24

Mr. Crotty, you indicated you couldn't

25

be a fair and impartial juror on this case?

1 PROCEEDINGS

2 PROSPECTIVE JUROR: No.

3 What name did you call me?

4 MR. KESSLER: I'm sorry, Mr. Hubert.

5 PROSPECTIVE JUROR: I'm sorry.

6 MR. KESSLER: You can't be a fair and
7 impartial juror on this case?

8 PROSPECTIVE JUROR: Well, I tell you
9 the truth, I really don't know if I can be
10 fair --

11 MR. KESSLER: Okay.

12 PROSPECTIVE JUROR: -- right now.

13 MR. KESSLER: That's all we ask. Thank
14 you very much.

15 Mr. Delegates, how are you?

16 PROSPECTIVE JUROR: Fine.

17 MR. KESSLER: I want to ask you about
18 being on a jury before. You've never been?

19 PROSPECTIVE JUROR: No.

20 MR. KESSLER: Ever seen a trial?

21 PROSPECTIVE JUROR: Just on the TV.

22 MR. KESSLER: You know, the witnesses
23 here aren't going to be actors or actresses
24 but real people, and there is going to be no
25 director to say cut, we'll to have refilm

1 PROCEEDINGS

2 that. Can you appreciate the people who
3 will come in here aren't trained actors and
4 actresses?

5 PROSPECTIVE JUROR: Yeah.

6 MR. KESSLER: Do you have any
7 preconceived notions on what people who are
8 victims of rape should appear like or act
9 like or sound like when they testify?

10 PROSPECTIVE JUROR: Better not act.

11 MR. KESSLER: Okay, but they can come
12 in a variety of emotions.

13 PROSPECTIVE JUROR: Sure.

14 MR. KESSLER: Ever been to a funeral,
15 seeing three sisters all grieving, over this
16 person who died, one may be crying, one may
17 be suffering in silence, one may not be
18 speaking at all?

19 PROSPECTIVE JUROR: Sure.

20 MR. KESSLER: Okay. Doesn't mean
21 anyone is grieving any more than another,
22 right?

23 PROSPECTIVE JUROR: Sure.

24 MR. KESSLER: Okay.

25 Miss Weinstock, would you agree with

PROCEEDINGS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

that?

PROSPECTIVE JUROR: Yes.

MR. KESSLER: Unfortunately, in this courtroom we have court reporters, we have to get everything down.

Miss Fittinger, you said, you indicated that you can't be a fair and impartial juror in this case?

PROSPECTIVE JUROR: I don't think so, no.

MR. KESSLER: Okay, based upon your religion?

PROSPECTIVE JUROR: No.

MR. KESSLER: Philosophical views?

PROSPECTIVE JUROR: A teenage daughter that travels back and forth by herself, that's what it's based on. This is a rape case. I feel very uncomfortable.

MR. KESSLER: Right, I understand that. You have to -- you know, my position is I can't get twelve people who do feel comfortable about rape, otherwise it wouldn't be fair to me, right?

So, my question is certainly, I

1 PROCEEDINGS

2 understand, no one hopefully in the jury is
3 going to like rape or hearing about it, but
4 unfortunately, people are raped and jurors
5 to have been picked to decide.

6 PROSPECTIVE JUROR: Yes.

7 MR. KESSLER: My question to you is
8 simply at the end of this case, if I do not
9 prove this defendant is guilty of the crime
10 of rape, are you going to come into the
11 courtroom and find him guilty based upon
12 your daughter's travelling back and forth?

13 PROSPECTIVE JUROR: I don't know.

14 MR. KESSLER: Really?

15 PROSPECTIVE JUROR: I honestly don't
16 know.

17 MR. KESSLER: Mr. Bohlig, how are you?

18 PROSPECTIVE JUROR: Fine.

19 MR. KESSLER: Another person who said
20 he couldn't be fair.

21 PROSPECTIVE JUROR: Yes. I'm not sure
22 if I could be. I am really not.

23 MR. KESSLER: Ever been on a jury
24 before?

25 PROSPECTIVE JUROR: No, sir, I have

PROCEEDINGS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

not.

MR. KESSLER: What do you to?

PROSPECTIVE JUROR: Sheet metal worker.

MR. KESSLER: I guess the question is this. I've been talking to other jury members, prospective jury members, I've been asking them. The Judge is going to tell you what the law is. Really your job as a juror is very simple if you think about it. You just decide the facts, what occurred, okay? If you determine in this case, for example, a kidnapping occurred and a rape occurred, and the Judge tells you this is the law on those case, you apply the facts as a juror because you determine it according to the law, come up with a verdict one way or another. Do you understand that?

PROSPECTIVE JUROR: Yes, sir, I certainly do.

MR. KESSLER: So, if at the end of this case I don't prove to you the defendant's guilt beyond a reasonable doubt, can you assure me that you would stand up in this courtroom and say not guilty?

1 PROCEEDINGS

2 PROSPECTIVE JUROR: I guess so. I'm
3 not sure, but I guess so.

4 MR. KESSLER: Okay. If I don't prove
5 that he's responsible you're not going to
6 shoot him?

7 PROSPECTIVE JUROR: No.

8 MR. KESSLER: You seem like a fair
9 person.

10 PROSPECTIVE JUROR: I think I am.

11 MR. KESSLER: All I'm looking for, on
12 the other hand, is some fairness. You know,
13 at the end of this case, based upon all the
14 evidence that you hear you find this
15 defendant is responsible for kidnapping and
16 rape and I proved to you his guilt beyond a
17 reasonable doubt, can you assure me you can
18 look him in the eye and say he's guilty?

19 PROSPECTIVE JUROR: Yes, sir.

20 MR. KESSLER: Anything particular what
21 makes you uncomfortable saying you're not
22 sure?

23 PROSPECTIVE JUROR: Many things, my
24 background. I had a girlfriend, we had a
25 short relationship, she was a victim at one

PROCEEDINGS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

time. I'm not sure if would I stop thinking about her during the course of this case, I'm not sure if I can turn that off. You know, I'm not being a wise guy, I'm really not trying to get out of it or anything, I'm just being honest, sir.

MR. KESSLER: That's all we ask.

PROSPECTIVE JUROR: Okay.

MR. KESSLER: When you spoke to her she was a victim of some type of rape?

PROSPECTIVE JUROR: Yeah, kind of. By her husband.

MR. KESSLER: You're saying based upon that, there may be bad feelings for?

PROSPECTIVE JUROR: Yes, sir, I'm pretty sure it would be.

MR. KESSLER: Okay. Thanks very much.

Miss San Felice, your son has been accused of a crime of harassment?

PROSPECTIVE JUROR: The landlord. Loud in the hall, tenants had an order of protection against him and he got arrested. He had an ACD.

MR. KESSLER: Here in Queens?

1 PROCEEDINGS

2 PROSPECTIVE JUROR: Yes, it is.

3 MR. KESSLER: My concern is, don't tell
4 me the exact details, my only question is,
5 do you have any hard feelings about the way
6 he was treated by Queens District Attorney's
7 Office?

8 PROSPECTIVE JUROR: I didn't like the
9 fact he had to be in a holding cell all that
10 time.

11 MR. KESSLER: That's for the police.

12 PROSPECTIVE JUROR: Yeah.

13 MR. KESSLER: I'll get to them in a
14 second. I'm talking about the District
15 Attorney's Office themselves.

16 PROSPECTIVE JUROR: No.

17 MR. KESSLER: Any problem with the way
18 they treated him?

19 PROSPECTIVE JUROR: No.

20 MR. KESSLER: Now I'll go to the
21 police. There are going to be police
22 officers who are going to testify in this
23 case and they are going to be major
24 witnesses in this case. It doesn't deal
25 with harassment but they're still police

PROCEEDINGS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

officers, okay? Can you promise me that if you're chosen whatever happened to your son, if you didn't like the way the police handled him, you can put that idea away?

PROSPECTIVE JUROR: Yes.

MR. KESSLER: And decide this case based upon the facts and law?

PROSPECTIVE JUROR: Yes.

MR. KESSLER: Okay. So if at the end of the case I prove to you the defendant's guilt beyond a reasonable doubt, your verdict would be what?

PROSPECTIVE JUROR: Guilty.

MR. KESSLER: If I fail to prove it?

MR. SCHECHTER: Not guilty.

MR. KESSLER: Can you hold me to that standard that the Judge told you about? Any reason why you can't be fair and impartial?

PROSPECTIVE JUROR: No.

MR. KESSLER: Let the cards fall where they may?

PROSPECTIVE JUROR: Yes.

MR. KESSLER: Seem fair?

PROSPECTIVE JUROR: Yeah.

1 PROCEEDINGS

2 MR. KESSLER: Great.

3 Miss Alvarado, you had indicated that
4 you couldn't be, based upon what you heard,
5 a fair and impartial juror?

6 PROSPECTIVE JUROR: I don't think so.

7 MR. KESSLER: You said, the question
8 the Judge asked you, number six, can you be
9 a fair and impartial juror, you said no?

10 PROSPECTIVE JUROR: But I think yes.

11 MR. KESSLER: You can?

12 PROSPECTIVE JUROR: Yeah.

13 MR. KESSLER: Do you have any problem
14 understanding anything I've said or the
15 Judge has said?

16 PROSPECTIVE JUROR: Yeah, a little, not
17 too much.

18 MR. KESSLER: Was it because we were
19 talking quickly?

20 PROSPECTIVE JUROR: I have no idea. I
21 don't understand.

22 MR. KESSLER: You don't understand.

23 PROSPECTIVE JUROR: Not so much.

24 MR. KESSLER: Okay, thanks very much.

25 I guess Miss Hubert -- it's Miss Arena.

PROCEEDINGS

1
2 Okay, I guess there is a problem. I guess
3 one question, you don't have to answer all
4 of them.

5 Can you be fair and impartial? You
6 understand if you're chosen as a juror you
7 have to deliberate with some of the other
8 jurors and decide what you heard here? Any
9 problem with that at all?

10 PROSPECTIVE JUROR: No. If they can
11 wait until I answer.

12 MR. KESSLER: I'm sure they would.

13 PROSPECTIVE JUROR: Okay.

14 MR. KESSLER: My question is simply,
15 I'm looking for twelve people to decide this
16 case fairly, let the cards fall where they
17 may. If I prove to you the defendant's
18 guilt beyond a reasonable doubt, what would
19 your verdict be?

20 PROSPECTIVE JUROR: Guilty.

21 MR. KESSLER: If I fail to prove it?

22 PROSPECTIVE JUROR: Not guilty.

23 MR. KESSLER: You could be fair about
24 that?

25 PROSPECTIVE JUROR: Yes.

1 PROCEEDINGS

2 MR. KESSLER: Okay. Have you ever
3 spoken to anyone who was a victim of a rape
4 before?

5 PROSPECTIVE JUROR: No.

6 MR. KESSLER: Do you have any
7 preconceived notions what they should look
8 like or appear like on the stand?

9 PROSPECTIVE JUROR: No.

10 MR. KESSLER: Great. I have nothing
11 further, thanks very much, everyone, for
12 their honesty and candor. I'm just asking
13 everyone here if they are chosen as jurors,
14 on this case, just be fair and impartial.
15 That means fair and impartial to the People
16 and fair and impartial to defense.

17 If I prove the defendant's guilt beyond
18 a reasonable doubt as the Judge defines
19 that, you'd be able to stand up and find him
20 guilty? If I fail to prove his guilt to say
21 not guilty, but decide this case without
22 prejudice for or prejudice against? Can
23 everyone assure me of that? Okay.

24 Terrific, thanks very much.

25 THE COURT: Mr. Schechter.

PROCEEDINGS

MR. SCHECHTER: Thank you.

Good afternoon, everyone. My name is Donald Schechter. I represent Guang Hai Zheng, who is accused of these crimes. Let me start off by telling you, there are accusations. You have not heard anything at this point to say that he is guilty of anything. Was indicted, that was a few months ago. It's nothing more than an accusation, how we get here, but that is not evidence and you know not to consider it as such.

Anyone have any problem with that concept, just don't feel just because he has been indicted that he must have done something?

Mr. Barrett, do you have any problem with that?

PROSPECTIVE JUROR: No.

MR. SCHECHTER: Anyone feel where there's smoke there must be fire?

PROSPECTIVE JUROR: Could be. That's what I think, could be.

MR. SCHECHTER: Well, Mr. Delegates,

1 PROCEEDINGS

2 let me ask you this. In that jury room, you
3 start deliberating now. What would your
4 verdict be, at this instant, right now? The
5 Judge sends you into the jury room and you
6 deliberate. You're heard the verdict must
7 be guilty or not guilty. Would you going
8 with the presumption of his innocence?

9 PROSPECTIVE JUROR: At this point, I
10 guess so.

11 MR. SCHECHTER: You haven't heard any
12 evidence, the burden is on the People to
13 prove my client guilty beyond a reasonable
14 doubt. Have they done it at this moment?

15 PROSPECTIVE JUROR: No.

16 MR. SCHECHTER: Okay. Does everyone
17 realize that the defendant doesn't to have,
18 doesn't have any burden whatsoever in this
19 case, the burden is on the People to prove
20 him guilty? That means that you don't have
21 to put on any witness, the defendant does
22 not have to testify.

23 Miss Ortiz-Rosenbaum, do you have any
24 problems if my client does not take the
25 witness stand?

1 PROCEEDINGS

2 PROSPECTIVE JUROR: No.

3 MR. SCHECHTER: Would you hold that
4 against him?

5 PROSPECTIVE JUROR: No.

6 MR. SCHECHTER: We don't put on any
7 witnesses, would you hold that against the
8 defendant?

9 PROSPECTIVE JUROR: No.

10 MR. SCHECHTER: Will you make your
11 decision based on what you hear on the
12 evidence or the lack of evidence?

13 PROSPECTIVE JUROR: Yes.

14 MR. SCHECHTER: Do you have any problem
15 with that?

16 PROSPECTIVE JUROR: No.

17 MR. SCHECHTER: Do you have a problem
18 with that type of crime, a rape?

19 PROSPECTIVE JUROR: Maybe rape.

20 MR. SCHECHTER: When someone takes the
21 stand and said she was raped, you know,
22 would you have more sympathy for her and may
23 give the People more credit than the defense
24 because she said she was raped?

25 PROSPECTIVE JUROR: No.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROCEEDINGS

MR. SCHECHTER: Would you listen to her and make a decision based on what you hear or don't hear?

PROSPECTIVE JUROR: Yes.

MR. SCHECHTER: Miss Weinstock, I know you said you'd have problem. Would you be more sympathetic to a person who said she was raped?

PROSPECTIVE JUROR: No.

MR. SCHECHTER: The type of crime, would you be fair and impartial, give my client a fair trial?

PROSPECTIVE JUROR: Once I heard the evidence.

MR. SCHECHTER: Well, nobody is telling you to leave your common sense out the door. When you come in here, you come in with everything that you've had up to your twenty eight years of age, okay? And everyone comes in here with certain preconceived ideas and notions, and we are not asking you to leave that outside. You said that you couldn't be fair and impartial because of the type of crime it is, hearing evidence

1 PROCEEDINGS

2 everything. You teach what grade?

3 PROSPECTIVE JUROR: Kindergarten.

4 MR. SCHECHTER: Do you think that in
5 and of itself would make you feel a little
6 bit more sympathetic for the DA or for the
7 victim?

8 PROSPECTIVE JUROR: Maybe.

9 MR. SCHECHTER: Thank you for your
10 honesty.

11 PROSPECTIVE JUROR: Okay.

12 MR. SCHECHTER: Mr. Siegel, your
13 daughter had very unfortunate incident. Can
14 you tell me approximately how long that was?

15 PROSPECTIVE JUROR: '81 or '82.

16 MR. SCHECHTER: Okay. Was the person
17 ever arrested?

18 PROSPECTIVE JUROR: No.

19 MR. SCHECHTER: The victim comes in
20 here, someone comes in here and says that
21 she was molested. Would you then think back
22 to what happened to your daughter?

23 PROSPECTIVE JUROR: Well, I hope not.

24 MR. SCHECHTER: Well, do you think,
25 that incident with your daughter, you could

1 PROCEEDINGS

2 put that aside and give my client a fair and
3 impartial trial?

4 PROSPECTIVE JUROR: Hopefully.

5 MR. SCHECHTER: Well, hopefully.
6 Unfortunately, in this particular situation
7 it may not be good enough. You know, I know
8 unfortunately you had that experience with
9 your daughter, but can I have your
10 cooperation?

11 PROSPECTIVE JUROR: All right, yes.

12 MR. SCHECHTER: Okay.

13 You also had relatives in the law.

14 PROSPECTIVE JUROR: No, I had friends.

15 MR. SCHECHTER: Friends.

16 PROSPECTIVE JUROR: Police officers.

17 MR. SCHECHTER: Do they ever discuss
18 with you their work?

19 PROSPECTIVE JUROR: Not really.

20 MR. SCHECHTER: That's not going to
21 affect you one way or another?

22 PROSPECTIVE JUROR: No.

23 MR. SCHECHTER: You have friends or
24 relatives that are lawyers?

25 PROSPECTIVE JUROR: Yes.

1 PROCEEDINGS

2 MR. SCHECHTER: Anyone do criminal
3 work?

4 PROSPECTIVE JUROR: Yes, both.

5 MR. SCHECHTER: Friends or relatives?

6 PROSPECTIVE JUROR: Friends.

7 MR. SCHECHTER: Do they ever discuss
8 with you their work?

9 PROSPECTIVE JUROR: Yeah, at times they
10 do.

11 MR. SCHECHTER: Well, obviously, if you
12 are chosen as a juror, you are not going to
13 call one of them up and tell them this is
14 what the case is about?

15 PROSPECTIVE JUROR: No.

16 MR. SCHECHTER: That is not going to
17 affect you in this particular matter, is it?

18 PROSPECTIVE JUROR: No.

19 MR. SCHECHTER: Besides the incident
20 with your daughter, have you been the victim
21 of any other crimes?

22 PROSPECTIVE JUROR: Automobile thefts.

23 MR. SCHECHTER: That's not -- you're
24 not going to hold that against my client?

25 PROSPECTIVE JUROR: No.

1 PROCEEDINGS

2 MR. SCHECHTER: Thank you.

3 Mr. Micalev, did you say you know
4 someone was a police officer, your
5 granddaughter?

6 PROSPECTIVE JUROR: No, my landlord.

7 MR. SCHECHTER: Does he ever talk to
8 you about his work?

9 PROSPECTIVE JUROR: Yeah, she does.

10 MR. SCHECHTER: She talks to you about
11 what happens?

12 PROSPECTIVE JUROR: Sometimes, when
13 she's out at the house.

14 MR. SCHECHTER: Okay. Would that
15 affect you -- is she a police officer in
16 Queens?

17 PROSPECTIVE JUROR: I don't know.

18 MR. SCHECHTER: Would relationship with
19 your landlord have any effect on you in this
20 particular matter?

21 PROSPECTIVE JUROR: Like I said
22 earlier, I can't judge anybody.

23 MR. SCHECHTER: Okay. Thank you.

24 PROSPECTIVE JUROR: I do swear I don't,
25 Judge.

1 PROCEEDINGS

2 MR. SCHECHTER: Okay. That's fine.

3 Mr. Delegatte, your son is a police
4 officer?

5 PROSPECTIVE JUROR: That's correct.

6 MR. SCHECHTER: Does he live at home?

7 PROSPECTIVE JUROR: No.

8 MR. SCHECHTER: Do you discuss with him
9 his work or does he discuss his work with
10 you?

11 PROSPECTIVE JUROR: Maybe on some
12 occasions.

13 MR. SCHECHTER: Would that have any
14 effect on you one way or other? Would you
15 feel more precaution because of your son?

16 PROSPECTIVE JUROR: No.

17 MR. SCHECHTER: You could give my
18 client a fair and impartial trial?

19 PROSPECTIVE JUROR: Yes.

20 MR. SCHECHTER: If the DA doesn't prove
21 his case, do you have any problems standing
22 up and saying not guilty?

23 PROSPECTIVE JUROR: No.

24 MR. SCHECHTER: You said you were a
25 juror a few years ago?

1 PROCEEDINGS

2 PROSPECTIVE JUROR: Yes.

3 MR. SCHECHTER: That was a criminal
4 case?

5 PROSPECTIVE JUROR: Yes.

6 MR. SCHECHTER: What was the charge?

7 PROSPECTIVE JUROR: Murder.

8 MR. SCHECHTER: Did you deliberate?

9 PROSPECTIVE JUROR: Yes.

10 MR. SCHECHTER: Anything happen in the
11 jury room that would make you not want to go
12 back in there?

13 PROSPECTIVE JUROR: There was smoking
14 at the time. One woman kept complaining
15 about smoking.

16 MR. SCHECHTER: There is no smoking
17 here.

18 PROSPECTIVE JUROR: I don't smoke
19 anymore.

20 THE COURT: You're smart.

21 MR. SCHECHTER: Besides for that?

22 PROSPECTIVE JUROR: No, not really.

23 MR. SCHECHTER: Anyone else have a
24 problem?

25 PROSPECTIVE JUROR: My landlady is a

1 PROCEEDINGS

2 police officer.

3 MR. SCHECHTER: Do you discuss her work
4 with her at all?

5 PROSPECTIVE JUROR: Not at all.

6 MR. SCHECHTER: And, some member of
7 your family has been the victim of a crime?

8 PROSPECTIVE JUROR: I have.

9 MR. SCHECHTER: What crime?

10 PROSPECTIVE JUROR: Five stolen
11 vehicles, and burglarized house twice.

12 MR. SCHECHTER: Anyone arrested?

13 PROSPECTIVE JUROR: One kid was.

14 MR. SCHECHTER: Of the vehicles or the
15 burglary?

16 PROSPECTIVE JUROR: The burglary.

17 MR. SCHECHTER: Okay. Did you have to
18 testify in court?

19 PROSPECTIVE JUROR: No, they dropped
20 that charge because the kid was wanted for
21 murder, so they just dropped the robbery and
22 went with the murder.

23 MR. SCHECHTER: Do you have any
24 problems with them doing that?

25 PROSPECTIVE JUROR: No.

1 PROCEEDINGS

2 MR. SCHECHTER: I believe a few of you
3 have said that you have watched TV, some of
4 the programs that -- anyone watch Court TV?
5 Anyone here ever testify in court?

6 Miss Arena, you are a paralegal?

7 PROSPECTIVE JUROR: Yes.

8 MR. SCHECHTER: Where are you employed?

9 PROSPECTIVE JUROR: Citibank. I'm a
10 municipal funds paralegal.

11 MR. SCHECHTER: During your training
12 have you ever worked for any attorney who
13 practiced criminal law?

14 PROSPECTIVE JUROR: No.

15 MR. SCHECHTER: During your paralegal
16 course were you given any instructions in
17 criminal law?

18 PROSPECTIVE JUROR: Yes.

19 MR. SCHECHTER: Now, I don't know
20 exactly what you were told or not, whatever
21 you were told, can you put that aside
22 because what you were told, I don't know how
23 long ago that was, could have been a few
24 years ago? The law may change.

25 PROSPECTIVE JUROR: I forget. It was a

1 PROCEEDINGS

2 long time ago.

3 MR. SCHECHTER: Okay, then you'll put
4 that aside even though you don't remember?

5 PROSPECTIVE JUROR: Right.

6 MR. SCHECHTER: You'll listen to what
7 Judge Katz tells you and you'll make your
8 decision based on that?

9 PROSPECTIVE JUROR: Yes.

10 MR. SCHECHTER: Does anyone here feel
11 that they have to hear two sides of a story?

12 Mr. Bohlig, you feel you have to hear
13 both sides?

14 PROSPECTIVE JUROR: Yes, I need to be
15 fair.

16 MR. SCHECHTER: Under our law,
17 though -- you know, everyone would like to
18 hear both sides, but under our law I don't
19 have any burden with my client, you may not
20 hear one side, you may only hear witnesses
21 called by the District Attorney. Can you
22 make a decision based on that?

23 PROSPECTIVE JUROR: I guess so, I would
24 use the facts and evidence.

25 MR. SCHECHTER: Or lack?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROCEEDINGS

PROSPECTIVE JUROR: Or lack.

MR. SCHECHTER: If my client doesn't testify or call witnesses, would you hold that against him?

PROSPECTIVE JUROR: I don't think so, no.

MR. SCHECHTER: Do you think even if we do call any witnesses or he doesn't testify, you can vote not guilty?

PROSPECTIVE JUROR: I guess so.

MR. SCHECHTER: Now, I believe your uncle is a police officer?

PROSPECTIVE JUROR: Yes.

MR. SCHECHTER: Does he discuss his work with you?

PROSPECTIVE JUROR: Only when he drinks.

MR. SCHECHTER: I'm not going to go near that one.

PROSPECTIVE JUROR: Only, like, police officers and attorneys should not discuss what they do, there's a certain confidentiality, but every once in a while you read something in the newspaper and they

PROCEEDINGS

1
2 will comment on it, or I have cousins who
3 are attorneys and friends who are attorneys,
4 and we talk about cases and in the
5 newspaper, and I get to hear their opinions
6 on it. That is what they voice to me,
7 that's what I hear.

8 MR. SCHECHTER: Do they practice
9 criminal law?

10 PROSPECTIVE JUROR: My could you tell
11 us N Marie, not -- know, she works for bank,
12 also.

13 MR. SCHECHTER: Well, the attorneys who
14 have commented on cases in the newspapers or
15 who were on the TV, most of the time the
16 sensational cases that are in the newspaper
17 or on the TV are basically criminal cases.
18 Are those the type cases that you said they
19 commented on?

20 PROSPECTIVE JUROR: Sometimes.

21 THE COURT: Could that effect you in
22 this case, whatever they told you?

23 PROSPECTIVE JUROR: I don't think so.

24 MR. SCHECHTER: Now, I believe you have
25 also said that you and a member of your

1 PROCEEDINGS.

2 family were victims of a crime?

3 PROSPECTIVE JUROR: A girl I used to
4 date.

5 MR. SCHECHTER: Is that the rape case?

6 PROSPECTIVE JUROR: Yeah. It was by
7 her husband, she was married to him at the
8 time.

9 MR. SCHECHTER: And, he was prosecuted?

10 PROSPECTIVE JUROR: No, she never
11 raised the charges.

12 MR. SCHECHTER: Were you going to be a
13 witness for that?

14 PROSPECTIVE JUROR: No, I did not say
15 that.

16 MR. SCHECHTER: Okay. Miss Arena, what
17 do you do for a living?

18 PROSPECTIVE JUROR: I work for the
19 board. Metropolitan.

20 MR. SCHECHTER: Do you have any friends
21 or relatives who are police officers?

22 PROSPECTIVE JUROR: No.

23 MR. SCHECHTER: Have you ever been the
24 victim of crime?

25 PROSPECTIVE JUROR: Yes.

1 PROCEEDINGS

2 MR. SCHECHTER: What type of crime?

3 PROSPECTIVE JUROR: Mugging.

4 MR. SCHECHTER: Was that perpetrator
5 ever arrested?

6 PROSPECTIVE JUROR: No.

7 MR. SCHECHTER: You won't hold that
8 against my client?

9 PROSPECTIVE JUROR: No.

10 MR. SCHECHTER: You'll be fair and
11 impartial?

12 PROSPECTIVE JUROR: Yes.

13 MR. SCHECHTER: Anything about the type
14 crime of rape that would make you feel you
15 wouldn't want to deliberate on this case?

16 PROSPECTIVE JUROR: No.

17 MR. SCHECHTER: Okay. Miss San Felice,
18 you were a juror on a rape case?

19 PROSPECTIVE JUROR: I was.

20 MR. SCHECHTER: You never deliberated?

21 PROSPECTIVE JUROR: No.

22 MR. SCHECHTER: You listened to
23 everything but you never got to go into the
24 jury room?

25 PROSPECTIVE JUROR: It was hard.

1 PROCEEDINGS

2 MR. SCHECHTER: Was the victim of that
3 a young child?

4 PROSPECTIVE JUROR: No, it was not.

5 MR. SCHECHTER: It was someone, you
6 know, someone over 21 or over eighteen?

7 PROSPECTIVE JUROR: Yes.

8 MR. SCHECHTER: Anything about that
9 experience that would make you feel
10 uncomfortable about sitting on this case?

11 PROSPECTIVE JUROR: No.

12 MR. SCHECHTER: You know judges and
13 attorneys?

14 PROSPECTIVE JUROR: I know some
15 attorneys, yes.

16 MR. SCHECHTER: You're not going to
17 call them up during the trial and ask them
18 what they think?

19 PROSPECTIVE JUROR: No.

20 MR. SCHECHTER: They would have no
21 bearing on this case, whatever your
22 knowledge?

23 PROSPECTIVE JUROR: No.

24 MR. SCHECHTER: Mr. Camacho, you know
25 Judge Quinones?

1 PROCEEDINGS

2 PROSPECTIVE JUROR: Yeah.

3 MR. SCHECHTER: Who is retired?

4 PROSPECTIVE JUROR: Yeah.

5 MR. SCHECHTER: Has he ever discussed
6 with you any of his cases?

7 PROSPECTIVE JUROR: No, not really.

8 MR. SCHECHTER: Did he ever give you --
9 I believe he sat on criminal at one time.

10 PROSPECTIVE JUROR: Yeah, criminal.

11 MR. SCHECHTER: Did he ever discuss
12 with you his feelings about the Criminal
13 Justice system?

14 PROSPECTIVE JUROR: Not really. We
15 discussed law a few times, you know.

16 MR. SCHECHTER: You knowing him or
17 whatever he told you, that's not going to
18 affect you in this matter?

19 PROSPECTIVE JUROR: No.

20 MR. SCHECHTER: Now, I have been
21 speaking too long. Hopefully Mr. Kessler
22 won't be speaking too long. I just asked
23 you certain questions. My feeling always is
24 if someone wants to sit on a jury, they give
25 all the right answers, or if they don't want

1 PROCEEDINGS

2 to sit they can give all the quote, wrong,
3 answers, and many people feel they can be
4 fair and impartial. Many people come in
5 with certain prejudices or biases.

6 I'd just like each one of you to take a
7 moment and think of something that you think
8 we should know about you that hasn't come
9 out that may affect our decision about
10 selecting you or not selecting you as a
11 juror. If it's personal we can go to the
12 sidebar if you don't want everyone to hear
13 or whatever. Anyone have anything?

14 PROSPECTIVE JUROR: I don't think it
15 will affect me. My brother is a police
16 officer in the NYPD.

17 MR. SCHECHTER: Somehow I must have
18 missed that. Does he discuss with you his
19 work?

20 PROSPECTIVE JUROR: No.

21 MR. SCHECHTER: Do you have any
22 problems at the end of the entire case? If
23 the People have failed to sustain their
24 burden, could you find my client innocent
25 because the People have failed to prove him

1 PROCEEDINGS

2 guilty? Would you have any problem with
3 that?

4 PROSPECTIVE JUROR: No problem.

5 MR. SCHECHTER: Look him in the eye,
6 correct?

7 PROSPECTIVE JUROR: Yes.

8 MR. SCHECHTER: He's a police officer
9 in Queens?

10 PROSPECTIVE JUROR: No, Bronx.

11 MR. SCHECHTER: Is he assigned to a
12 special bureau or just --

13 PROSPECTIVE JUROR: No. I have friends
14 in special bureaus but not -- he's just
15 regular.

16 MR. SCHECHTER: You have police
17 officers who are friends?

18 PROSPECTIVE JUROR: Yes.

19 MR. SCHECHTER: What borough?

20 PROSPECTIVE JUROR: Street Crime Unit.
21 But he's in another bureau.

22 MR. SCHECHTER: Anyone else?

23 PROSPECTIVE JUROR: No.

24 MR. SCHECHTER: And, does he have ever
25 discuss with you his work?

1 PROCEEDINGS

2 PROSPECTIVE JUROR: No.

3 MR. SCHECHTER: And, you would have no
4 problem looking at him in the eye and saying
5 the same thing?

6 PROSPECTIVE JUROR: Right, I wouldn't
7 have a problem.

8 MR. SCHECHTER: Anyone else?

9 PROSPECTIVE JUROR: Sidebar?

10 THE COURT: Step up.

11 (There was discussion at the bench.)

12 MR. SCHECHTER: Does anyone else want
13 to say anything? Thank you all.

14 THE COURT: I have one other question.
15 Those who were prior jurors, you ma'am, you
16 sir, and you, were you sequestered during
17 the course of the deliberations in any way?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Did you have a problem with
20 that? You had plenty of notice?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Any of you think you might
23 have a problem with if you had to be
24 sequestered overnight while deliberating?

25 PROSPECTIVE JUROR: I would.

PROCEEDINGS

1

2

THE COURT: If you got notice of it?

3

4

PROSPECTIVE JUROR: I guess I'd -- I definitely would. I would have a problem.

5

THE COURT: What problem?

6

7

PROSPECTIVE JUROR: I have a wife that is ill at home.

8

9

10

11

12

THE COURT: There is no one that can take care of her? If you were told in advance, like one night, if you are deliberating late at night, you felt, you know, you needed a rest?

13

14

15

PROSPECTIVE JUROR: If push came to shove, probably, but I would be uncomfortable.

16

17

18

THE COURT: What about you?

PROSPECTIVE JUROR: Would it involve weekends?

19

20

THE COURT: No, no weekends, no. No holidays, no weekends. Is that okay then?

21

22

PROSPECTIVE JUROR: In more than one night?

23

24

THE COURT: Probably one night, that's all.

25

PROSPECTIVE JUROR: Okay.

1 PROCEEDINGS

2 THE COURT: And you would get notice in
3 advance as to what to bring.

4 PROSPECTIVE JUROR: Okay.

5 THE COURT: Counsel, let's go to the
6 chambers.

7 (The following occurred in chambers.)

8 THE CLERK: First count, challenge
9 answer for cause by the People?

10 MR. KESSLER: Number thirteen is off,
11 Robert Hubert. I was informed he did
12 service jury duty last year. He's not
13 eligible for this panel.

14 THE COURT: Any objection?

15 MR. SCHECHTER: No.

16 MR. KESSLER: I move for cause Miss
17 Alvarado, who has a problem with the English
18 language. Juror number eight, Mr. Bohlig,
19 indicated he had problems with his
20 girlfriend, who had an attack at one time.
21 Juror number --

22 THE COURT: Wait a minute. Let's do it
23 one at a time.

24 MR. KESSLER: Okay.

25 THE CLERK: Selina Alvarado.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROCEEDINGS

MR. SCHECHTER: No objection.

THE COURT: Okay.

MR. SCHECHTER: She didn't understand half the stuff.

THE CLERK: Juror number eight, John Bohlig.

MR. SCHECHTER: His girlfriend was a rape victim by her husband. He specifically said he doesn't know whether that will affect him or not on one of my last questions to him --

MR. KESSLER: That's my understanding.

THE COURT: All right. Both of you agree on that, I'll allow it.

THE CLERK: Next?

MR. KESSLER: Juror number eleven, Mr. Micalev, indicated he has a religious problem with sitting in judgment over another human being.

THE COURT: Yes. He specifically said he couldn't judge anybody.

MR. KESSLER: Juror number twelve, Mr. Crotty, indicated he could not be fair and impartial. That was to your Honor's

1 PROCEEDINGS

2 questioning of the juror.

3 THE COURT: Yes.

4 MR. KESSLER: And, I think that's --
5 last, Miss Fittinger, I couldn't even get to
6 rehabilitate here.

7 THE COURT: That's true. She said her
8 daughter traveled on a train.

9 MR. KESSLER: I didn't understand it,
10 but I believe those are all for-cause
11 challenges.

12 THE COURT: All right. Mr. Schechter?

13 MR. SCHECHTER: No objection.

14 THE CLERK: Cause by defense?

15 MR. SCHECHTER: Number three,
16 Mr. Delegatte, who said he didn't think he
17 could be fair and impartial.

18 THE COURT: He said he could be fair
19 and impartial.

20 MR. KESSLER: He said that during your
21 questioning.

22 THE COURT: No, on the questionnaire.

23 MR. SCHECHTER: Number nine,
24 Miss Weinstock. She originally said she
25 couldn't be fair and impartial. There was a

PROCEEDINGS

1
2 little bit of rehab but at the end when I
3 said if she feel more comfortable siding
4 with the victim of a rape, she said yes.

5 THE COURT: All right, I'll allow it.

6 MR. SCHECHTER: Your Honor, I don't
7 know, Miss Arena never answered any
8 questions to you. I don't know if that per
9 se would be cause.

10 THE COURT: She had a speech
11 impediment. But she stated in answer to
12 your question when she had to deliberate
13 could she be a fair juror, by both of you, I
14 believe.

15 MR. SCHECHTER: Yes. That's for cause.

16 THE CLERK: Peremptory challenges
17 challenge by the People at this time?

18 MR. KESSLER: Just the paralegal.
19 That's the only peremptory I have, everyone
20 else is fine.

21 THE CLERK: One peremptory. Any
22 peremptory by the defense at this time?

23 MR. SCHECHTER: Juror number two, juror
24 number four, and juror number -- I challenge
25 Duryea.

1 PROCEEDINGS

2 THE CLERK: Four is Ortiz-Rosenbaum,
3 and number --

4 MR. SCHECHTER: Ten.

5 THE CLERK: Harry Siegel. Defense used
6 three. That leaves us one, two, three,
7 four. Mr. Jose Camacho, juror number one,
8 number two, Eileen San Felice, number three,
9 Richard Barrett, and number four will be
10 Roseanne Arena. Jose Camacho, Eileen San
11 Felice, Richard Barrett, Roseanne Arena
12 remain seated. Are the four jurors
13 acceptable?

14 MR. KESSLER: Yes.

15 MR. SCHECHTER: Yes.

16 (The following occurred in open court.)

17 (Four jurors were sworn for the final
18 panel.)

19 THE COURT: All right. Those four of
20 you who were selected, come back tomorrow at
21 9:30. You are excused.

22 THE CLERK: Cheryl Searington
23 S-E-A-R-I-N-G-T-O-N. C-H-E-R-Y-L.

24 Alice Hanley, H-A-N-L-E-Y. First name
25 Alice. Sally Dimisa, D-I-M-I-S-A, first

PROCEEDINGS

1
2 name Sally. Anna Mildred Serrano,
3 S-E-R-R-A-N-O. N-E-G, S-H-U-H-W-E-U.
4 Jerome Lynch. L-Y-N-C-H. Charon Jessel,
5 J-E-S-S-E-L, first name C-H-A-R-O-N. James
6 Nealon, N-E-A-L-O-N, James. Fay Dookwah,
7 D-O-O-K-W-A-H, first name F-A-Y.

8 Angela Sherman. Grace Diazvilla,
9 D-I-A-Z-V-I-L-L-A, first name Grace. Karen
10 Harris. Noel Wilson, N-O-E-L, first name.
11 Christopher Spardel, S-P-A-R-D-E-L. Lucy
12 Shiuh, S-H-I-U-H, Lucy.

13 THE COURT: Ladies and gentlemen,
14 answer the questions as the other jurors
15 gave us, the number of the question, first
16 sentence of a specific answer, the last.

17 PROSPECTIVE JUROR: One, thirty six.
18 Number two, Briarwood, Queens. Number
19 three, office manager. Number four,
20 divorced. Five, two years college. Six,
21 not applicable. Seven, no. Eight, no.
22 Nine, no. Ten, no. Eleven, no. Twelve,
23 no. Thirteen, no. Fourteen, no. Fifteen,
24 no, sixteen, no.

25 THE COURT: Thank you.

1 PROCEEDINGS

2 PROSPECTIVE JUROR: Number one, 57.
3 Number two, Bellerose. Number three,
4 secretary. Four, married. Five, twelve
5 years. Six, sheet metal mechanic, auto
6 mechanic. Seven, yes. About four years
7 ago, it was a civil suit. Eight, no. Nine,
8 no. Ten, no. Eleven, yes. Twelve, no.
9 Thirteen, no. Fourteen, no. Fifteen, no.
10 Sixteen, yes.

11 PROSPECTIVE JUROR: Number one,
12 nineteen. Number two, Queens, Whitestone.
13 Number three, full-time student. Four, I'm
14 not married, I'm single. Five, I have my
15 associates' degree. Six, no, doesn't apply.
16 Number seven, no. Number eight, yes.
17 Number nine, yes. Ten, no. Eleven, no.
18 Twelve, no. Thirteen, no. Fourteen, no.
19 Fifteen, no. Sixteen, yeah.

20 THE COURT: Thank you.

21 PROSPECTIVE JUROR: Number one, thirty
22 seven. Number two, Briarwood. Three,
23 jewelry company. Number four, married.
24 Five, high school. Six, three children,
25 nine, six and one. Seven, no. Eight, no.

PROCEEDINGS

Nine, no. Ten, no. Eleven, no, twelve, no.
Thirteen, no. Fourteen, no. Fifteen, no.
Sixteen, no.

THE COURT: Thank you.

PROSPECTIVE JUROR: Number one, 32.
Number two, ozone Park. Number three, a
legal assistant. Four, single. Five,
college degree. Six, not applicable.
Seven, no. Eight, yes. Nine, yes. Ten,
no. Eleven, yes. Twelve, yes. Thirteen,
no. Fourteen, no. Fifteen, no. Sixteen,
no.

PROSPECTIVE JUROR: One, 42. Two,
Flushing. Three, housewife. Four, married.
Five, college. Six, computer assistant, and
my son is in high school. Seven, no.
Eight, no. Nine, no. Ten, no. Eleven,
yes. Twelve, no. Thirteen, no. Fourteen,
no. Fifteen, no. Sixteen, I think so.

THE COURT: Thank you. Next.

PROSPECTIVE JUROR: Number one, 54.
Number two, Jamaica. Three, retired. Four,
divorced. Five, high school. Six, kids,
one lives in California. Number seven, no.

1 PROCEEDINGS

2 Eight, no. Nine, no. Ten, no. Eleven, no.
3 Twelve, no. Thirteen, no. Fourteen, no.
4 Fifteen, yes. Sixteen, yes.

5 PROSPECTIVE JUROR: Number one,
6 nineteen. Number two, Queens. Number
7 three, full-time student. Number four,
8 single. Number five, pursuit of bachelor's.
9 Six, does not apply. Seven, no. Eight,
10 yes. Nine, no. Ten, no. Eleven, no.
11 Twelve, no. Thirteen, I might. Fourteen,
12 no. Fifteen, no. Sixteen, no. I believe
13 so.

14 THE COURT: Next.

15 PROSPECTIVE JUROR: Number one, thirty
16 nine. Number two, Astoria. Number three,
17 plumber. Number four, divorced. Number
18 five, two-year associate's degree. Number
19 six, does not apply. Seven, no. Number
20 eight, yes. Number nine, yes. Number ten,
21 yes. Number eleven, yes. Number twelve,
22 no. Number thirteen, no. Fourteen, no.
23 Fifteen, yes. Sixteen, yes.

24 THE COURT: Thank you. Next, please.

25 PROSPECTIVE JUROR: Number one, thirty

PROCEEDINGS

1
2 five. Number two, Richmond Hill. Number
3 three, security officer. Four, married.
4 Five, high school. Number six, husband is a
5 security officer, my two kids are in school.
6 Number seven, no. Number eight, no. Number
7 nine, yes. Number ten, no. Number eleven,
8 no. Number twelve, no. Number thirteen,
9 no. Number fourteen, no. Fifteen, no.
10 Sixteen, yes.

11 THE COURT: Thank you. Next please.

12 PROSPECTIVE JUROR: Number one, 42.
13 Number two, Queens. Three, high school
14 teacher. Four, married. Five, master's
15 plus. Six, married, kids in elementary and
16 junior high school. Seven, yes, twenty
17 years ago, civil case. Eight, yes. Nine,
18 yes. Ten, no. Eleven, yes. Twelve, no.
19 Thirteen, no. Fourteen, no. Fifteen, no.
20 Sixteen, yes.

21 THE COURT: Thank you. Next, please.

22 PROSPECTIVE JUROR: Number one, 54.
23 Number two, Queens. Number three, work in a
24 hotel. Number four, divorced. Waitress.
25 Five, secondary education in Ireland.

1 PROCEEDINGS

2 Number six, my daughter's a model. Number
3 seven, no. Number eight, no. Nine, yes.
4 Ten, yes. Eleven -- number ten, no. Number
5 eleven, yes. Number twelve, no. Thirteen,
6 no. Fourteen, no. Fifteen, no. Sixteen,
7 definitely no.

8 PROSPECTIVE JUROR: Number one, 34.
9 Number two, Rosedale Queens. Number three,
10 police communications. Four, single.
11 Number five, three years of college. Six,
12 no. Seven, yes, seven years ago, civil
13 service case. Number eight, yes. Number
14 nine, no. Number ten, no. Number eleven,
15 no. Number twelve, yes, new York City
16 Police Department. Number thirteen, no.
17 Fourteen, no. Fifteen, no. Sixteen, yes.

18 THE COURT: Thank you.

19 PROSPECTIVE JUROR: Number one, 30.
20 Number two, Jamaica. Number three, manager
21 of production company. Number four, single.
22 Number five, high school grad. Six, two
23 daughters, eleven and thirteen. Number
24 seven, no. Eight, no. Nine, no. Ten, no.
25 Eleven, no. Twelve, no. Thirteen, no.

PROCEEDINGS

Fourteen, no. Fifteen, no. Sixteen, yes.

PROSPECTIVE JUROR: Number one, nineteen. Number two, Jamaica. Three, construction. Number four, single. Five, one year of college. Six, doesn't apply. Seven, no. Number eight, no. Nine, no. Ten, no. Eleven, yes. Twelve, no. thirteen, no. Fourteen, no. Fifteen, no. Sixteen, yes.

THE COURT: Thank you. Next.

PROSPECTIVE JUROR: One, 44. Two, Forest Hills, Queens. Number three, lab tech. Four, married. Five, yes. Number six, high school. Number seven, no. Number eight, yes. Number nine, yes. Number ten, no. Eleven, no. Twelve, no. Thirteen, no. Fourteen, no. Fifteen, no. Sixteen, yes.

THE COURT: Thank you.

All right. We are going to recess now until tomorrow morning at 9:30. Don't discuss the case amongst yourselves or with anyone else. Don't let anyone discuss the case with you or in your presence, and report to where the court officer tells you

PROCEEDINGS

to report at 9:30 sharp tomorrow morning.

Those of you who are in the box, please remember exactly where you sitting here so that you can do this expeditiously in the morning.


Have a nice evening, see you all tomorrow morning at 9:30.

All jurors have left.

* * * * *

C E R T I F I C A T I O N

CERTIFIED THAT THE FOREGOING IS A TRUE AND ACCURATE TRANSCRIPT OF THE ORIGINAL STENOGRAPHIC MINUTES IN THIS CASE.


Debra Rael
Senior Court Reporter

CA #
319/96

95

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF QUEENS: CRIMINAL TERM: PART K-25

Copy

-----X
THE PEOPLE OF THE STATE OF NEW YORK,

Ind. No.
3282-95

-against-

VOIR DIRE

HAI GUANG ZHENG,

Defendant.

-----X

June 26, 1996

Criminal Court Building
125-01 Queens Boulevard
Kew Gardens, New York

B E F O R E :

THE HONORABLE STANLEY B. KATZ,

Justice, Supreme Court.

(Plus a jury of twelve, plus 4 alternates)

A P P E A R A N C E S :

For the People:

THE HONORABLE RICHARD A. BROWN

District Attorney, Queens County

By: SCOTT KESSLER, ESQ,

Assistant District Attorney

For the Defendant:

DONALD SCHECTER, ESQ.

10 Cutter Mill Road

Great Neck, New York

ALSO PRESENT:

YI WAN, Official Mandarin Interpreter

MICHAEL BERMAN, RPR
Official Court Reporter

Voir Dire

96

(In open court; defendant not present)

COURT CLERK: Case on trial, Zheng Guang Hai.

MR. SCHECTER: Donald Schechter.

It's my understanding the defendant is not produced. I have one matter in AP-6. I will be back here quarter to 10:00.

THE COURT: What do you mean he's not produced?

COURT CLERK: We are expecting his production very soon.

THE COURT: I really want to start.

I expect you back here by quarter to. Find out if all the jurors are here.

MR. KESSLER: Scott Kessler for the People.

COURT CLERK: 3282 of '95, People versus Zheng Guang Hai.

THE INTERPRETER: Zheng Hai Guang.

THE COURT: What is it?

MR. SCHECTER: Zheng Hai Guang.

COURT CLERK: Let the record reflect the presence of the Official Mandarin interpreter, Yi Wan.

(Defendant present.)

MR. KESSLER: Scott Kessler.

Voir Dire

97

(Whereupon, the prospective jury entered the courtroom)

THE COURT: Would you step up a moment, please?

(Discussion held at bench off the record)

THE COURT: Good morning, ladies and gentlemen of the jury.

PROSPECTIVE JURY PANEL: Morning.

THE COURT: Now, the attorneys will have an opportunity to talk to you.

MR. KESSLER: Good morning, welcome to an American Court of Law.

My name is Scott Kessler. I'm an Assistant District Attorney. I work for Richard Brown. I'll be asking you some questions similar to the questions the Judge has already asked you during your questionnaire. At any time in time I ask a question which you prefer not to speak about in public we can approach the side, as I've been doing with the defense counsel, we can talk about it at private.

I know a number of people have indicated that they could not be fair and impartial on this case when it came down to the last question, question

Voir Dire

98

number sixteen. And, Miss argue ton

PROSPECTIVE JUROR 1: Yes?

MR. KESSLER: You were one of first that
stated -- you had indicated you can't be fair and
impartial?

PROSPECTIVE JUROR 1: Actually, it's yes and
no. As a woman I don't know if I could be
impartial.

MR. KESSLER: We don't want rape cases
decided solely by twelve men. That's not how the
Court system works.

PROSPECTIVE JUROR: Right.

MR. KESSLER: Obviously there are certain men
that don't ***leering about it as much as certain
woman, people have daughters, whatever the case.

And we are not looking for twelve people who
say I enjoy hearing about people being raped;
that's not what we are here for. In our society
there are times when people get raped and they
are entitled to a fair trial by fair jurors who
will decide the case based upon the law and the
evidence and they won't say just because it's
rape I'll find him guilty because I don't like
it.

Voir Dire

99

1
2 On the other hand, they won't say even though
3 he's guilty I don't want to find him guilty
4 because of whatever reason. That's not within
5 the law. Okay, so I guess simple question is. A
6 witness will testify on this stand, talk about an
7 event. You have to determine whether or not this
8 person is truthful and credible. If at the end
9 of this case you find this person to be truthful
10 and credible and you believe she was raped and
11 kidnaped and I prove everything I have to prove,
12 do you have any problem standing up and finding
13 this defendant guilty?

14 PROSPECTIVE JUROR 1: No.

15 MR. KESSLER: On the other hand, for whatever
16 reason you don't believe I've proven kidnaping or
17 rape, or any of the charges, you believe the
18 defendant is innocent or not guilty, do you have
19 any problem standing up and saying not guilty?

20 PROSPECTIVE JUROR: No.

21 MR. KESSLER: You'll let the cards fall as
22 they may, to use the expression, as I may, the
23 cards being the evidence. That's what you're
24 using. Any problem with that?

25 PROSPECTIVE JUROR 1: No.

Voir Dire

100

1
2 MR. KESSLER: Fair enough. That's all I ask.
3 Miss Delamata?

4 PROSPECTIVE JUROR: Hi.

5 MR. KESSLER: I have been talking to people
6 about -- you had indicated on question number
7 sixteen you couldn't be fair and impartial. You
8 heard me speak to juror one, does that make
9 sense?

10 PROSPECTIVE JUROR 4: It makes sense. If
11 he's here is because he did something or maybe he
12 was in the wrong place at the wrong time. But if
13 he's here he did something.

14 MR. KESSLER: Can you listen to the judge's
15 instructions that I have to prove the case beyond
16 a reasonable doubt?

17 PROSPECTIVE JUROR 4: Yes.

18 MR. KESSLER: Do you believe in that?

19 PROSPECTIVE JUROR: Yes.

20 MR. KESSLER: You're saying you can't follow
21 the judge's instruction on that?

22 PROSPECTIVE JUROR: I will.

23 MR. KESSLER: If the Judge tells you the
24 indictment, the evidence heard by the grand jury
25 is not evidence, nothing is evidence until you

Voir Dire

101

1
2 hear it from the witness stand can, you follow
3 that instruction?

4 PROSPECTIVE JUROR: Yes.

5 MR. KESSLER: At the end of this case if I
6 prove to you the defendant's guilt beyond a
7 reasonable doubt through evidence through
8 witnesses can you stand up and say guilty?

9 PROSPECTIVE JUROR 4: Yes.

10 MR. KESSLER: If I fail to prove his guilt,
11 you do not believe he's guilty of these charges
12 beyond a reasonable doubt, can you say not
13 guilty?

14 PROSPECTIVE JUROR: I don't know because --

15 MR. KESSLER: Are you going to find him
16 guilty if he's not guilty?

17 PROSPECTIVE JUROR: No.

18 MR. KESSLER: You're not that type of person,
19 are you?

20 PROSPECTIVE JUROR: No.

21 MR. KESSLER: My question is simple. We are
22 all asking of jurors, if you don't believe he's
23 guilty of these charges beyond a reasonable doubt
24 can you stand up and find him not guilty?

25 PROSPECTIVE JUROR 4: Yes.

Voir Dire

102

1
2 MR. KESSLER: If you believe he's guilty find
3 him guilty?

4 PROSPECTIVE JUROR: Yes.

5 MR. KESSLER: Would you agree that you should
6 decide this case not upon the indictment or not
7 upon anything else but what you hear from this
8 witness stand right in this courtroom; would that
9 make sense to you?

10 PROSPECTIVE JUROR: Yes.

11 MR. KESSLER: Can you do that?

12 PROSPECTIVE JUROR: Yes.

13 MR. KESSLER: Thanks. Miss Dimisa?

14 PROSPECTIVE JUROR 3: Yes?

15 MR. KESSLER: How are you?

16 PROSPECTIVE JUROR: Fine.

17 MR. KESSLER: Understand what I'm getting at?

18 PROSPECTIVE JUROR: Yeah.

19 MR. KESSLER: College student?

20 PROSPECTIVE JUROR: Yes.

21 MR. KESSLER: Studying?

22 PROSPECTIVE JUROR: Physical therapy.

23 MR. KESSLER: Physical therapy, is that in
24 college?

25 PROSPECTIVE JUROR: Yes.

Voir Dire

103

1
2 MR. KESSLER: Studying to be a physical
3 therapist?

4 PROSPECTIVE JUROR: Yep.

5 MR. KESSLER: Talking about fair and
6 impartial jurors, deciding it on the facts, the
7 law and the evidence, consider yourself a fair
8 person?

9 PROSPECTIVE JUROR: For the most part, yeah.

10 MR. KESSLER: Person comes in here, says
11 certain things, what are you going to look for in
12 that person as to whether or not that person is
13 telling the truth?

14 PROSPECTIVE JUROR: I have to go by what they
15 say. You know, they are supposed to tell the
16 truth when they are and that's what I have to
17 believe.

18 MR. KESSLER: People can lie, people can make
19 mistakes?

20 PROSPECTIVE JUROR: Correct.

21 MR. KESSLER: Understand your job as jurors?
22 If someone testifies obviously there's three
23 options, either lying, telling the truth or
24 making a mistake. Do you think you have the
25 common sense and ability to determine that when

Voir Dire

104

1
2 someone testifies in this case?

3 PROSPECTIVE JUROR: Yeah.

4 MR. KESSLER: If I prove to you the
5 defendant's guilt beyond a reasonable doubt at
6 the end of this trial what's your verdict?

7 PROSPECTIVE JUROR 3: Guilty.

8 MR. KESSLER: If I fail to prove his guilt
9 beyond a reasonable doubt?

10 PROSPECTIVE JUROR: Innocent.

11 MR. KESSLER: Not guilty?

12 PROSPECTIVE JUROR: Right.

13 MR. KESSLER: Any problem with that?

14 PROSPECTIVE JUROR 3: No.

15 MR. KESSLER: Okay. What about -- understand
16 during this trial there may be testimony
17 concerning rape as one of the charges?

18 PROSPECTIVE JUROR: Yes.

19 MR. KESSLER: Not pleasant, right?

20 PROSPECTIVE JUROR: No.

21 MR. KESSLER: Understand as jurors you have
22 an obligation to listen closely to every part of
23 the testimony, the part you like and the part you
24 don't like to hear about, but you have to
25 evaluate it, understand?

Voir Dire

105

1
2 PROSPECTIVE JUROR: Yes.

3 MR. KESSLER: Can you do that?

4 PROSPECTIVE JUROR 3: I can try.

5 MR. KESSLER: That's all I'm asking. My
6 question is: Have you ever spoken to anyone
7 about rape before?

8 PROSPECTIVE JUROR: Yes.

9 MR. KESSLER: Someone you knew?

10 PROSPECTIVE JUROR: Yes.

11 MR. KESSLER: Was it easy for that person to
12 talk about it?

13 PROSPECTIVE JUROR: To me, yes.

14 MR. KESSLER: How about strangers?

15 PROSPECTIVE JUROR: No.

16 MR. KESSLER: Do you think that a person who
17 comes into a courtroom like this and talks about
18 this to strangers might be nervous?

19 PROSPECTIVE JUROR: Yes.

20 MR. KESSLER: You a little nervous talking to
21 me right now?

22 PROSPECTIVE JUROR: No.

23 MR. KESSLER: The person you spoke to about
24 being raped before, let me ask you this: Do you
25 think rape occurs in front of a lot of people?

Voir Dire

106

1
2 PROSPECTIVE JUROR: It can. But I don't
3 think it does.

4 MR. KESSLER: Let's suppose one witness comes
5 into this courtroom and tells you she was raped,
6 obviously not anyone else in the room at the
7 time. Do you have any problem convicting someone
8 solely upon the word of that one person if you
9 believe that person?

10 PROSPECTIVE JUROR: Convict someone on one
11 person's testimony?

12 MR. KESSLER: Yes.

13 PROSPECTIVE JUROR: I think it's possible.
14 Depends on what they say. Depends on their
15 story. Can't just take one person.

16 MR. KESSLER: Let me ask you this. Suppose
17 you're walking down the street and someone points
18 a gun at you, takes your money, you are the only
19 witness to the crime, would you expect the police
20 to arrest that person?

21 PROSPECTIVE JUROR: Definitely.

22 MR. KESSLER: Expect the DA's office to
23 prosecute?

24 PROSPECTIVE JUROR: Yes.

25 MR. KESSLER: Do you expect a jury to

Voir Dire

107

convict?

PROSPECTIVE JUROR: Yes.

MR. KESSLER: That's one person's word.

PROSPECTIVE JUROR: Yes.

MR. KESSLER: Possible to do?

PROSPECTIVE JUROR: Yes.

MR. KESSLER: Would you agree with that, Miss
Dookwah?

PROSPECTIVE JUROR 10: Well, not really.

MR. KESSLER: Not crazy about one person's
word? Sorry, I can't hear you.

PROSPECTIVE JUROR 10: I said it depends on
the circumstances.

MR. KESSLER: One person comes into this
courtroom, let's say, a robbery case. They tell
you I was robbed. Let's take Miss Dimisa, I'll
bother you for one second. She tells you she was
robbed at gunpoint. She's the witness on the
case and says that's person that did it. You say
I can't convict based on her word alone, I need
additional things?

PROSPECTIVE JUROR 10: You need additional --

MR. KESSLER: Is that your opinion or is that
the law, because the law doesn't require anymore

Voir Dire

108

1
2 than one. I want to know if it's in your heart
3 that you need more than one person's word.

4 PROSPECTIVE JUROR 10: I think you need more
5 than one person's word to get a conviction.

6 MR. KESSLER: How about you, Mr. Nealon,
7 agree with that?

8 PROSPECTIVE JUROR 9: I think I'd look for
9 more evidence to sustain the fact.

10 MR. KESSLER: I'm talking about that simple
11 robbery case. Someone points a gun, you're the
12 only person on the street, you later see that
13 person, you want the police to arrest that person
14 jurors want more than one person's word.

15 PROSPECTIVE JUROR 9: If I filed a complaint
16 and he was arrested I think I'd pick him out of a
17 line-up.

18 MR. KESSLER: Whatever. You're the only
19 person, do you have any problem convicting
20 somebody based on one person's word if you
21 believe that person to be truthful and credible?
22 That's my question.

23 PROSPECTIVE JUROR 9: If I believe.

24 MR. SCHECTER: Objection, your Honor. It has
25 to be proof beyond a reasonable doubt.

Voir Dire

109

1
2 THE COURT: Add reasonable doubt.

3 MR. KESSLER: Truthful, credible and you
4 believe them beyond a reasonable doubt.

5 PROSPECTIVE JUROR 9: I would have to convict
6 him.

7 MR. KESSLER: So, in this case, if a woman
8 comes in here and tells you she was raped, only
9 person in the room at the time with the
10 defendant, and you believe her to be truthful and
11 credible and beyond a reasonable doubt, would you
12 have any problem walking into this courtroom and
13 finding the defendant guilty?

14 PROSPECTIVE JUROR 9: Based solely on her
15 word I would say I would have a problem.

16 MR. KESSLER: What's your problem with that?

17 PROSPECTIVE JUROR: I just said before,
18 people can lie.

19 MR. KESSLER: Absolutely.

20 PROSPECTIVE JUROR: I hope there would be
21 more evidence for me to -- beyond a reasonable
22 doubt.

23 MR. KESSLER: What if the Judge tells you
24 that it's not the -- I could put twenty witnesses
25 on the stand and not prove this case beyond a

Voir Dire

110

1
2 reasonable doubt and I could put one witness on
3 the stand and prove it. It's not the quantity
4 but the quality of evidence, would you agree with
5 that statement?

6 PROSPECTIVE JUROR 9: That's how I was had,
7 yes.

8 MR. KESSLER: But you still have a problem
9 convicting based solely upon the word of one
10 person?

11 PROSPECTIVE JUROR: Yeah.

12 MR. KESSLER: And even though you're robbed
13 at gunpoint, you're the only person, and you pick
14 that person out of a line-up, you wouldn't expect
15 a jury of twelve to convict that person. You
16 have no problem letting this person free?

17 PROSPECTIVE JUROR 9: If I picked -- if I got
18 robbed, I picked the person out in a line-up and
19 it would be up to the jury to decide. I have
20 nothing to say about it. If I picked the guy out
21 I'm perjuring myself putting out an arrest
22 warrant for him.

23 MR. KESSLER: I'm trying to reverse it on
24 you. You have a problem convicting based solely
25 on one person, but when you're the person robbed

Voir Dire

111

1
2 you would want the police to take action and a
3 jury to believe you, but you don't want someone
4 like you on the jury. Maybe I'm mistaken. I'm
5 not really sure.

6 PROSPECTIVE JUROR 9: Like I said, I have to
7 hear the evidence.

8 MR. KESSLER: Okay. Miss Sherman, understand
9 what I'm getting at?

10 PROSPECTIVE JUROR 11: Yes.

11 MR. KESSLER: Do you have any problem with
12 that concept, if a witness comes in, tells you I
13 was raped, I was in a room alone and you believe
14 that person to be truthful and credible beyond a
15 reasonable doubt, do you have any problem
16 convicting based solely on her word?

17 PROSPECTIVE JUROR 11: No.

18 MR. KESSLER: Miss Diazvilla?

19 PROSPECTIVE JUROR 12: Definitely. I have to
20 agree with what she said.

21 THE COURT: You have to speak up.

22 PROSPECTIVE JUROR 12: I would agree.

23 MR. KESSLER: With Miss Sherman? How about
24 you.

25 PROSPECTIVE JUROR: I would have to hear both

Voir Dire

112

sides and I have to hear the other party's testimony.

MR. KESSLER: The Judge told you the defendant has no burden of proof and they don't have to put on a case. They don't have to do a thing, rests solely upon me. At the end of this case you may only hear one side of the story. You have to decide it based upon the evidence you hear here. Let's suppose this case you don't hear from the other side and you hear one person's testimony. You believe that person to be truthful and credible; she's the only witness to this rape. Do you have any problem convicting the defendant based solely on that witness's word?

PROSPECTIVE JUROR 13: If there's only one party involved?

MR. KESSLER: She comes in, tells you I was raped, this is the person that did this. You believe this person to be truthful and credible beyond a reasonable doubt. Some people have said I need more than one person's word. For whatever reason that's not the law, but they feel in their heart of hearts they have a problem with that.

Voir Dire

113

1
2 There's nothing wrong with that. But,
3 unfortunately, that's not the law. And they may
4 not be a perfect juror on this case.

5 So my question to you is simply, are you one
6 of those type of people or can you say I can
7 convict based solely on that one person's word?

8 PROSPECTIVE JUROR 13: With the evidence,
9 yes, if there's no other witness. If that's just
10 one party, yes, by the evidence and their word.

11 MR. KESSLER: You know what I used about
12 being robbed?

13 PROSPECTIVE JUROR: With me if I was robbed?
14 Yes. I would convict that person because I saw
15 that person and it happened to me.

16 MR. KESSLER: I'm saying could you believe --

17 PROSPECTIVE JUROR 13: With the evidence,
18 yes.

19 MR. KESSLER: There's other truthful people
20 out there swell. Some people may lie. You have
21 to judge that in this case.

22 PROSPECTIVE JUROR 13: Right, based on the
23 evidence and what she says. Yes.

24 MR. KESSLER: Okay. Miss Serrano, how are
25 you?

Voir Dire

114

1
2 PROSPECTIVE JUROR 5: Fine.

3 MR. KESSLER: I don't want to be repetitive.
4 You know what I'm getting at. You're a legal
5 assistant?

6 PROSPECTIVE JUROR: Yes.

7 MR. KESSLER: What kind to corporation or law
8 firm?

9 PROSPECTIVE JUROR 5: Law firm.

10 MR. KESSLER: What kind of law?

11 PROSPECTIVE JUROR 5: Criminal.

12 MR. KESSLER: Do you handle criminal matters
13 for them? Do you ever go to Court?

14 PROSPECTIVE JUROR 5: Once. Basically I
15 serve as a translator.

16 MR. KESSLER: Spanish?

17 PROSPECTIVE JUROR: Yes.

18 MR. KESSLER: You mostly act as an
19 interpreter?

20 PROSPECTIVE JUROR: Yes.

21 MR. KESSLER: Have you ever acted as an
22 interpreter for people who have been accused of
23 crimes?

24 PROSPECTIVE JUROR 5: Yes.

25 MR. KESSLER: Do you think that would in any

Voir Dire

115

way affect you in this case?

PROSPECTIVE JUROR 5: I believe the fact that I work for a law firm I could not be fair and impartial.

MR. KESSLER: Tell me why?

PROSPECTIVE JUROR: Based on the fact I work for a law firm I could not be fair and impartial.

MR. KESSLER: Is there a reason? You want to tell us in private?

THE COURT: Step up.

(Discussion held at bench off the record)

MR. KESSLER: Mr. Wilson, how are you?

PROSPECTIVE JUROR 14: Fine.

MR. KESSLER: First time as a juror?

PROSPECTIVE JUROR: Yes.

MR. KESSLER: What do you think?

PROSPECTIVE JUROR 14: What do you mean?

MR. KESSLER: How do you think the process is going so far for you, do you like it?

PROSPECTIVE JUROR 14: It's okay. Kind of slow but it's all right.

MR. KESSLER: I've been talking about this concept with some people. Have a problem

Voir Dire

116

convicting on one person's word? Do you have a problem?

PROSPECTIVE JUROR 14: I don't have a problem with it.

MR. KESSLER: Okay. Have you ever had any contact with the New York City Police Department?

PROSPECTIVE JUROR 14: No.

MR. KESSLER: Have you had any contact with the -- have you ever been outside the country, United States?

PROSPECTIVE JUROR 14: Yeah, I've been outside the country.

MR. KESSLER: Why I bring it up, some of my witnesses in this case may need a translator, they don't speak English as their native language. And is that going to cause you any problem at all?

PROSPECTIVE JUROR 14: You mean the translator?

MR. KESSLER: You'll hear the testimony. They are going to say it, but unfortunately it will need to be interpreted into the English language.

PROSPECTIVE JUROR: I have no problem.

Voir Dire

117

1
2 MR. KESSLER: If you were to leave this
3 country and be a victim of crime, of another
4 crime, most likely you would need a translator if
5 it came before a juror of their peers?

6 PROSPECTIVE JUROR 14: Uh-hum.

7 MR. KESSLER: What about sitting on this
8 case, any reason you can't be fair to both sides?

9 PROSPECTIVE JUROR 14: No.

10 MR. KESSLER: Thank you. Mr. Spardel?

11 PROSPECTIVE JUROR 15: Yes?

12 MR. KESSLER: Maybe I didn't hear, you drive
13 a truck?

14 PROSPECTIVE JUROR: No.

15 MR. KESSLER: For a living?

16 PROSPECTIVE JUROR: Construction.

17 MR. KESSLER: How long have you been doing
18 that?

19 PROSPECTIVE JUROR 15: Two months. Just
20 started.

21 MR. KESSLER: What did you do before that?

22 PROSPECTIVE JUROR: Student.

23 MR. KESSLER: What did you study?

24 PROSPECTIVE JUROR: Education.

25 MR. KESSLER: We have been talking about a

Voir Dire

118

1
2 couple of concepts, any problem with anything I
3 mentioned so far?

4 PROSPECTIVE JUROR: Not at all.

5 MR. KESSLER: If I prove to you the
6 defendant's guilt beyond a reasonable doubt
7 what's your verdict?

8 PROSPECTIVE JUROR 15: Guilty.

9 MR. KESSLER: If I fail to prove it?

10 PROSPECTIVE JUROR: Not guilty.

11 MR. KESSLER: Can you let the cards fall as
12 they may?

13 PROSPECTIVE JUROR: Definitely.

14 MR. KESSLER: Suppose you're chosen and one
15 of the jurors comes up to you and says, you know
16 what I believe, the District Attorney proved his
17 case beyond a reasonable doubt, the defendant is
18 guilty as charged, but when I look over there he
19 doesn't look like someone who would do something
20 like this, what would you say to that juror?

21 PROSPECTIVE JUROR 15: I don't know
22 specifically what a criminal looks like.

23 MR. KESSLER: Come in all ages?

24 PROSPECTIVE JUROR: Basically.

25 MR. KESSLER: Race, creed, backgrounds?

Voir Dire

119

1
2 PROSPECTIVE JUROR: Uh-hum, basically.

3 MR. KESSLER: Would you agree with me you
4 should not base this case on anyone's looks but
5 on the evidence, make sense?

6 PROSPECTIVE JUROR 15: Yes.

7 MR. KESSLER: Miss Hsieh?

8 PROSPECTIVE JUROR 16: Yes?

9 MR. KESSLER: How are you?

10 PROSPECTIVE JUROR 16: Fine.

11 MR. KESSLER: You work? You're a housewife?

12 PROSPECTIVE JUROR: No, I work in the lab.

13 MR. KESSLER: I thought you were married and
14 your husband works in a lab?

15 PROSPECTIVE JUROR: Yes.

16 MR. KESSLER: You're married?

17 PROSPECTIVE JUROR: Yes.

18 MR. KESSLER: What does your husband do?

19 PROSPECTIVE JUROR: He works in the lab.

20 MR. KESSLER: What type of lab?

21 PROSPECTIVE JUROR: I run blood tests for a
22 clinical lab. I have an AOS.

23 MR. KESSLER: What about you? Any problem
24 convicting solely upon the testimony of one
25 person if you believe that person to be truthful?

Voir Dire

120

1
2 PROSPECTIVE JUROR 16: I don't think I can.

3 THE COURT: The Court Reporter can't hear
4 you.

5 PROSPECTIVE JUROR 16: Can I talk in private?

6 THE COURT: Step up.

7 (Discussion held at bench off the record)

8 MR. KESSLER: Mr. Lynch, how are you?

9 PROSPECTIVE JUROR 7: All right.

10 MR. KESSLER: Have you ever been on a jury
11 before?

12 PROSPECTIVE JUROR 7: No.

13 MR. KESSLER: First time?

14 PROSPECTIVE JUROR: Yes.

15 MR. KESSLER: What do you think so far?

16 PROSPECTIVE JUROR: I don't know.

17 MR. KESSLER: You're not sure?

18 PROSPECTIVE JUROR 7: No.

19 MR. KESSLER: One of the questions was, can
20 you be fair and impartial on this case. What do
21 you think?

22 PROSPECTIVE JUROR 7: Yes.

23 MR. HAGGERTY: What makes you believe you can
24 be fair and impartial?

25 PROSPECTIVE JUROR 7: If you proof beyond a

Voir Dire

121

1
2 reasonable doubt guilt or innocence.

3 MR. KESSLER: What qualities do you think
4 makes you be a fair person?

5 PROSPECTIVE JUROR 7: My judgment.

6 MR. KESSLER: You're how old?

7 PROSPECTIVE JUROR: Fifty four.

8 MR. KESSLER: Do you know that fifty four
9 years of common sense that you have behind you,
10 do you think you could use that in deciding this
11 case?

12 PROSPECTIVE JUROR 7: Yes.

13 MR. KESSLER: Do you think that's probably
14 the most important thing you bring to this
15 courtroom?

16 PROSPECTIVE JUROR: Yes.

17 MR. KESSLER: Thank you. Any problem with
18 this concept I've been talking about, one person
19 testifying if you believe that persons's
20 truthfulness? Do you have any problem convicting
21 if I prove it beyond a reasonable doubt?

22 PROSPECTIVE JUROR: One of the jurors said
23 you have to hear both sides.

24 MR. KESSLER: I explained it. Sometimes in a
25 Court of law the defense doesn't have to put on

Voir Dire

122

any witnesses so you have to base it on one side,
understand what I'm saying?

PROSPECTIVE JUROR: Yes.

MR. KESSLER: My question is: If you hear
that one side, say it's one witness, and you
believe that witness to be truthful and credible
and I prove everything I have to through that
witness, do you have any problem convicting
solely upon her word alone?

PROSPECTIVE JUROR 7: Yes.

MR. KESSLER: You have a problem or you have
no problem?

PROSPECTIVE JUROR 7: I have no problem.

MR. KESSLER: Terrific. You can decide this
case fairly?

PROSPECTIVE JUROR 7: Yes.

MR. KESSLER: Miss Teng?

PROSPECTIVE JUROR 6: I see --

THE COURT: Want to step up here, please,
ma'am?

(Discussion held at bench off the record)

MR. KESSLER: Miss Hanley, how are you?

PROSPECTIVE JUROR 2: Fine, thank you.

MR. KESSLER: I spoke to everyone but you.

Voir Dire

123

1
2 Hope you don't feel bad? You work as a
3 secretary, what type of place is that?

4 PROSPECTIVE JUROR 2: Forms distributor.

5 MR. KESSLER: How long have you been doing
6 that type of work?

7 PROSPECTIVE JUROR: Been working there for
8 six years.

9 MR. KESSLER: Any problems with the concept
10 I've been talking about, about convicting someone
11 based solely on one person's word?

12 PROSPECTIVE JUROR 2: No, I don't have a
13 problem with that. I do have a bit of a problem
14 when you said that he may not get up on the
15 witness stand. It seems sort of like unfinished
16 business.

17 MR. KESSLER: The Judge has told you in the
18 beginning of this trial that I have the burden of
19 proof and I must prove the defendant's guilt
20 beyond a reasonable doubt, that's how this Court
21 of law works, understand that?

22 PROSPECTIVE JUROR 2: Right.

23 MR. KESSLER: I gave the example yesterday if
24 I were to shoot someone in front of you twelve
25 people I would have a trial and be presumed

Voir Dire

124

1
2 innocent and the State must prove me guilty
3 beyond a reasonable doubt; would you agree with
4 that concept of law?

5 PROSPECTIVE JUROR: Of course.

6 MR. KESSLER: The other concept is, the Judge
7 will tell you the defendant has no burden of
8 proof. I must prove his guilt, would you agree
9 with that?

10 PROSPECTIVE JUROR: I understand it all.
11 Logically, I'm just saying.

12 MR. KESSLER: Let me finish. So my last
13 point is, if you do not hear from the defense
14 side the Judge will tell you you can't consider
15 that and you must decide this case based on what
16 you hear and the facts and the evidence you heard
17 in this case. Can you follow the Judge's
18 instructions on the law?

19 PROSPECTIVE JUROR: Certainly.

20 MR. KESSLER: That's all it is. He will tell
21 you what the law is. You may not like it, you
22 may not agree with some of the law, you may want
23 it changed. The bottom line is he's the law in
24 this courtroom.

25 THE COURT: No, I just tell them what the law

Voir Dire

125

1
2 is in this courtroom. The legislature decides
3 what the law is.

4 MR. KESSLER: Only thing you have to assure
5 us, no matter what the Judge tells you the law
6 is, you will follow it, okay, whether you agree
7 with it or not, can you do that?

8 PROSPECTIVE JUROR 2: Sure.

9 MR. HAGGERTY: If I prove to you the
10 defendant's guilt beyond a reasonable doubt,
11 what's your verdict?

12 PROSPECTIVE JUROR: Guilty.

13 MR. KESSLER: If I fail to prove his guilt
14 beyond a reasonable doubt?

15 PROSPECTIVE JUROR 2: Not guilty.

16 MR. KESSLER: Great, great. Okay. Anyone?

17 THE COURT: I knew you missed him.

18 MR. KESSLER: Mr. Jassal, you're a full-time
19 student, what type of studies?

20 PROSPECTIVE JUROR 8: Chemistry.

21 MR. KESSLER: You're going for a B.S. in
22 chemistry?

23 PROSPECTIVE JUROR: Yes.

24 MR. KESSLER: Are you planning any type of
25 graduate work after that?

Voir Dire

126

1
2 PROSPECTIVE JUROR 8: Possibly.

3 MR. KESSLER: Also in chemistry?

4 PROSPECTIVE JUROR: Maybe medicine.

5 MR. KESSLER: You indicated, I think, the
6 last question you believed you'd be fair?

7 PROSPECTIVE JUROR 8: Yes. That was due to
8 another question previously. I believe it's
9 number 15, about religion.

10 MR. KESSLER: Something about religion?

11 PROSPECTIVE JUROR: Had something to do with
12 the answer of my question.

13 MR. KESSLER: There's something in your
14 religious beliefs that may cause you --

15 PROSPECTIVE JUROR 8: I consider myself a
16 religious person and I hold strict, ethical and
17 moral values. They may infringe upon my decision
18 in this case.

19 MR. KESSLER: Okay. I think I've spoken to
20 everyone. Miss Harris, you're an operator for
21 9-1-1?

22 PROSPECTIVE JUROR 13: Yes.

23 MR. KESSLER: You receive phone calls from
24 people?

25 PROSPECTIVE JUROR 13: Yes.

Voir Dire

127

1
2 MR. KESSLER: Dispatch police out?

3 PROSPECTIVE JUROR 13: Yes.

4 MR. KESSLER: Did you ever work specifically
5 with the major case division of the New York City
6 Police Department?

7 PROSPECTIVE JUROR 13: No.

8 MR. KESSLER: Do you know who they are? Have
9 you ever heard of them or worked with them?

10 PROSPECTIVE JUROR 13: No, I just work as a
11 9-1-1 operator.

12 MR. KESSLER: You don't know anyone in
13 particular in the major case division?

14 PROSPECTIVE JUROR 13: No.

15 MR. KESSLER: Anything about your background
16 that would cause you not to be fair and
17 impartial?

18 PROSPECTIVE JUROR 13: No problem.

19 MR. KESSLER: The Judge in this case will
20 instruct you, know one is given any more
21 credibility than anyone else. Someone comes in
22 as a priest, a police officer, they are treated
23 the same as anybody who may be homeless or less
24 educated.

25 PROSPECTIVE JUROR 13: No problem.